UNIVERSITY OF KENTUCKY

Law Notes

Seven Serving The State

ALUMNI SPOTLIGHT: THE ONE LESS TRAVELED BY **Q&A WITH JONATHAN CARDI**

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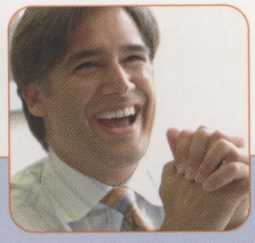

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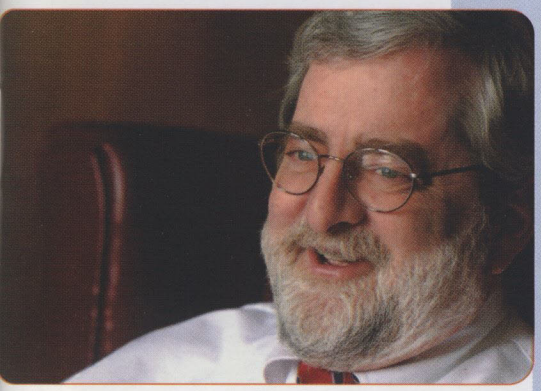
from the dean



Dear Friend of the College of Law,

In this issue of the College of Law magazine, *UK Law Notes*, we highlight the contributions of some of our graduates who serve in state government.

From service in elected positions at the highest level, such as Representative Tanya Pullin and Secretary of State Trey Grayson, to service in policy making positions on important issues such as health care, like Shannon Turner, our graduates are in important positions in the government of the Commonwealth.

Graduates such as John Gillig, Chief of Staff to the Speaker of the House, and Susan Stokely Clary, Court Clerk, General Counsel, and Court Administrator for the Supreme Court, are instrumental in making our state government function at the highest levels. Our graduates bring their legal educations to bear in direct ways, such as Laura Hendrix, General Counsel of the Legislative Research Commission, and Amy Dougherty at the Public Service Commission.

The graduates profiled are only a representative selection of the many graduates who serve the Commonwealth. Scores of College of Law graduates serve all across Kentucky, at all different levels and in an amazingly broad range of positions. It is a tradition of service that extends back to the founding of the College, almost one hundred years ago. It is a tradition the present generation of students will extend.

I hope you enjoy reading about our graduates who serve the Commonwealth by working in state government, and that you will thank them for their service when you next encounter them.

Best regards.

Allan W. Vestal, Dean
UK College of Law

BY THE **NUMBERS**

1255 applications were received for 2006 entrance into UK College of Law

476 applicants were in-state

779 applicants were out-of-state

51 students are involved with the Rural Drug Program

$986,643 was the amount of the federal grant that funded the Rural Drug Program

8 new faculty since Dean Vestal came—Professors Cardi, Ringhand, D. Moore, Kightlinger, Huberfeld, Price, Dennis and H. Davis

2 the first two of those have just been promoted to Associate Professor with tenure

Sources: Office of the Dean and Office of Admissions, UK College of Law

In the news:

Go to **www.uky.edu/Law/news** for more up-to-date news on the UK College of Law.

Letters to the Editor:

Law Notes welcomes your letters on its contents. Please write to *Law Notes*, 209 Law Building, Lexington, KY 40506-0048. Fax comments to (859) 323-1061 or email *Law Notes* at rtilley@uky.edu. Letters may be edited for length and clarity.

UK LAW BLSA MOCK TRIAL TEAM SECOND IN NATION

Four students from the University of Kentucky College of Law Black Law Student Association (BLSA) took second place in the nation in the Thurgood Marshall Mock Trial National Competition held this past March in Washington, D.C.

Photo Credit: Tim Collins/UK Public Relations. (L-R) Valorie Smith, Brandi Stewart, Viola Forbin and Anthony Gray

The UK team of Viola Forbin, Anthony Gray, Valorie Smith and Brandi Stewart were one of 12 teams competing for the nation's top spot. They defeated teams representing prestigious law schools such as Texas A&M School of Law, Howard University School of Law and Pepperdine University School of Law. UK's team defeated Pepperdine, the top seeded team for part of the tournament, twice before losing to the University of Georgia in the final round; a team they had beaten in the regional qualifying competition to win the Thurgood Marshall Mock Trial Southern Regional Competition in February.

"This is the first time that a UK Law mock trial team has finished this high in a national competition," said Allan Vestal, dean of the UK College of Law. "This is an outstanding quartet of students and their achievement is remarkable."

Mock trial tests law students' ability to try a case alternately as both the prosecutor and defense counsel. To succeed in competition, participants must be articulate, persuasive and think well on their feet, as well as being skilled in making opening statements, witness examinations, cross examinations and closing arguments.

Local attorney and UK College of Law graduate Robert Houlihan coached the team.

"Bobby's dedication to this team's success demonstrates how the involvement of our alumni directly contributes to the accomplishments of our students," said Vestal. □

PROFESSOR CONNELLY AWARDED THE CHIEF JUSTICE'S SPECIAL SERVICE AWARD

Professor Allison Connelly was recently awarded the Chief Justice's Special Service Award at the KBA Convention. She was chosen in recognition of her distinguished service to the Court of Justice as a legal educator, for administering the Kentucky Legal Education Opportunity Program (KLEO), and for her efforts in promoting diversity within the *Bench and Bar* of the Commonwealth of Kentucky. □

"Without Chief Justice Lambert's vision and determination to 'change the face of justice in Kentucky,' there would be no KLEO program director to honor. Without Representative Jessie Crenshaw's commitment to KLEO and his superb legislative skills in obtaining funding for the program, the KLEO program would have never become a reality."

Allison Connelly
Associate Professor of Law & Director, Legal Clinic

COMPED SCHOLARSHIP

CompEd, Inc. has established an endowed fellowship fund with the College of Law. The Fund will be known as the CompEd, Inc. Second Fellowship Fund.

CompEd, Inc. of Louisville, Kentucky, has held a long relationship with the College of Law. Since the company's first gift in 1994, they have contributed more than $115,000 to supporting student fellowships in the College. The recent $100,000 commitment will be matched through the state's RCTF program for a total gift of $200,000. □

TWO UK LAW STUDENTS JOIN NBLSA EXECUTIVE BOARD

University of Kentucky College of Law students Adrienne Thakur and Brandi Stewart have been named to the National Black Law Student Association (NBLSA) Executive Board in the southern region. Thakur will serve as director of sub region one, which includes Kentucky and Tennessee, and Stewart, will serve as secretary.

NBLSA is the largest student-run organization in America. As director, Thakur will be responsible for supervising and planning a regional academic retreat, participating in fundraising, and representing law schools in the southern region at events. As secretary, Stewart will be responsible for maintaining mailing lists for the entire region, creating and developing a monthly regional newsletter, and maintaining an open line of communication between the local, regional and national groups of the organization.

They will attend four regional meetings and the association's national meeting in Washington, D.C.

The southern region is the largest of six regions within NBLSA and is comprised of 42 schools across 9 states. Members of the southern region executive board manage a budget of nearly $50,000, plan and implement academic support programs for student members and serve as the regional leadership team for 1,500 students. □

by Rebekah M. Tilley

The One Less Traveled By

A low hum begins the warm-up as string, brass and wind instruments fall in and out of pitch with one another. The cacophony of noise rises and fills the empty auditorium at the Kentucky Center in Louisville, Kentucky, then slowly dies away. The conductor taps his baton and, when silence falls, raises it high above his head and begins leading the Louisville Orchestra in Mozart's Symphony No. 29 in A Major.

Toni M. Robinson, Class of 2002

The swirl of sound envelops the listener. The melody and harmony chase one another and are expanded and deepened with the unique sounds created by the diverse instruments of the orchestra. Every detail of the piece—the notes, the rhythm, the dynamics—are orchestrated even to ensuring the string bows rise and fall in unison.

Stepping behind stage, you find an orchestra of a different sort. An industrious group of people who work to ensure the experience behind the scenes is as melodious as the performance—the orchestra librarian, personnel manager, stage manager, local stage hands, sound and lighting technicians and Toni Robinson, Director of Operations at the Louisville Orchestra and member of UK Law Class of 2002.

The Louisville native's journey to finding herself behind the stage curtains does not follow the usual pattern for most that enter orchestra administration. Robinson's musical career began in the fourth grade when she picked up the trumpet and later the viola in the sixth grade. She and her twin sister, a violinist, excelled in their chosen instruments. Both sisters were members of the Louisville Youth Orchestra in high school, and received full scholarships to attend the University of Louisville. While at U of L, Toni majored in music and minored in political science. Midway through her undergraduate career, Robinson began to examine what direction she should take with her musical talent.

"I decided I didn't want to teach music and I didn't have the dedication it takes to be a professional musician—all the hours practicing and taking auditions—it just wasn't what I perceived myself doing," Robinson said. "That's when I asked myself, what interests me? I knew that the law somewhat interested me, music interested me, business interested me—so I decided to go into entertainment law. That was my goal upon entering law school."

While at the UK College of Law, Robinson excelled in her course work and was an active member in the Black Law Students Association, the Trial Advocacy Board and was on the staff of the *Journal of Natural Resources and Environmental Law*. Yet it was becoming increasingly clear a career in the traditional practice of law was not what she wanted for herself. Her heart was in music and the arts. During her three years in Lexington, Toni found release from the stress and pressures of law school by performing with the Lexington Community Orchestra. Encouraged by mentors like Professor Allison Connelly to "follow her heart," after completing a *juris doctorate*, Robinson turned down a job offer with a law firm in Lexington to pursue a master's degree in arts administration at Indiana University.

"I did something that was atypical of everyone in my law class because no one else decided after all the hard work and dedication put into law school that 'Hey, this is not what I want to do. I'm going to go back to school after taking the bar,'" Robinson commented with a laugh.

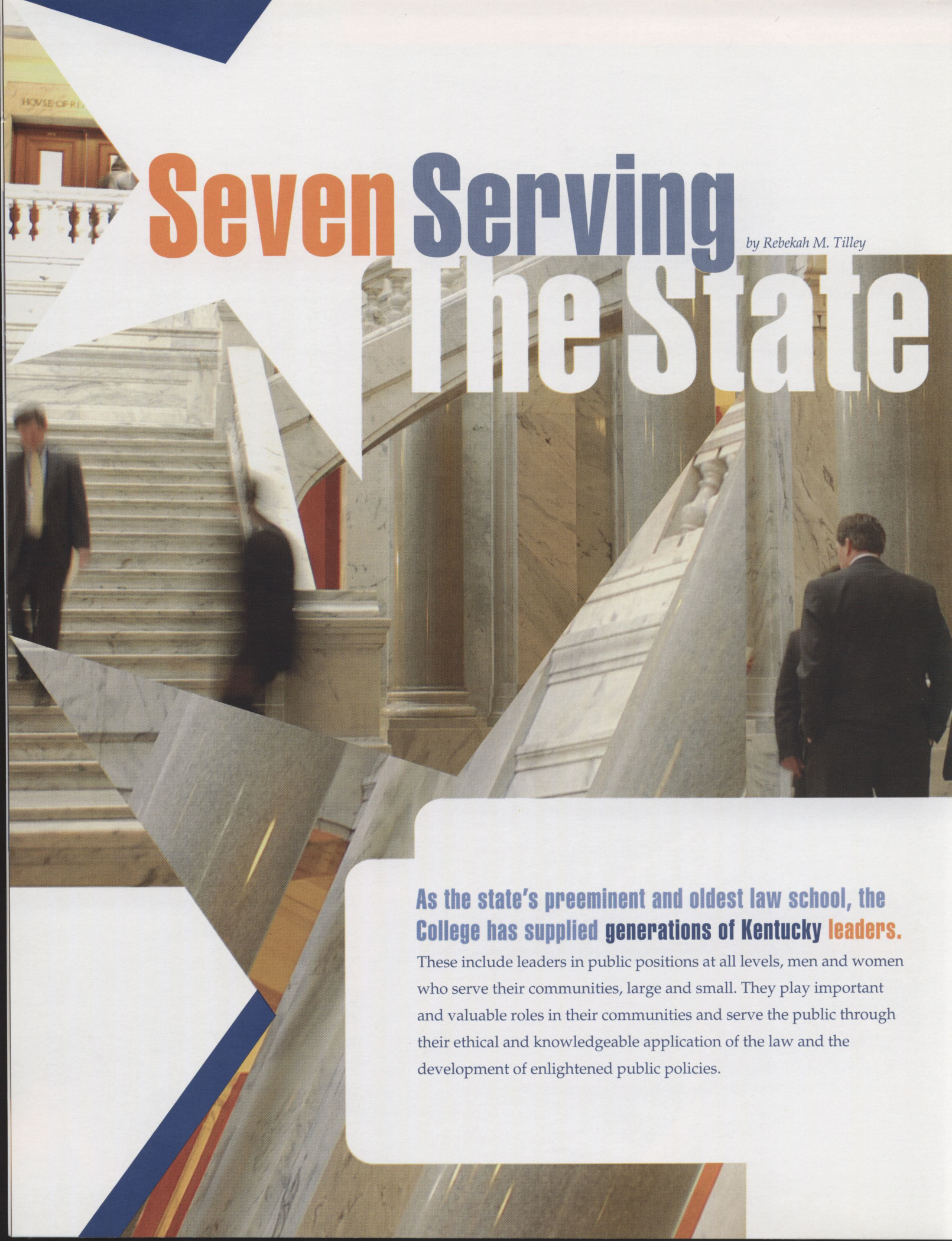
As Toni's deft fingers on the strings of her viola coordinate with the graceful movements of the bow to create a lilting melody, so she also coordinates scheduling of venues, compliance with union contracts, and advancing the details of all concerts to create a successful orchestra season. She is the official liaison between all guest artists and the Orchestra, and personally handles every aspect of their visits from contracts to dry cleaning. Since coming to the Louisville Orchestra in February 2005, Robinson has worked with a number of diverse musical talents from violinist Judith Ingolfsson to Kenny Rogers to Kool & The Gang. This upcoming season Toni is looking forward to working with Pops artists including Wynonna Judd, Olivia Newton-John, and The Beach Boys, as well as famous violinists Itzhak Perlman and Nadja Salerno-Sonnenberg.

"A lot of people assume, 'Oh, you're classically trained and you work for an orchestra so you listen to classical music all the time.' No. Not the case," Robinson smiles. "I'm a die hard pop music fan and I listen to DJX and love Kelly Clarkson and Justin Timberlake. Working with the pops artists is probably the one thing I enjoy the most about my job. It keeps my job interesting, and each experience is never the same because no guest artist is ever the same."

Talking with this down-to-earth, driven young woman, it is unmistakable that she finds joy in her work and is convinced that her courage in taking the road "less traveled by" has paid off in her life. "It was a logical if unusual progression to getting to where I am now," reflects Robinson. "Had I known earlier that there were people who made orchestra management their career, I might have taken a different career path, but I'm glad I took the path I did because I think it's a unique path. Especially with the law degree—it's been a great benefit and I use that knowledge every day in my work." While she would have been a talented attorney in any legal firm, Robinson decided early on that "if you don't love what you do, it isn't worth doing." And it is clear that she is doing something she finds worthwhile. □

Seven Serving the State

by Rebekah M. Tilley



As the state's preeminent and oldest law school, the College has supplied generations of Kentucky leaders.

These include leaders in public positions at all levels, men and women who serve their communities, large and small. They play important and valuable roles in their communities and serve the public through their ethical and knowledgeable application of the law and the development of enlightened public policies.

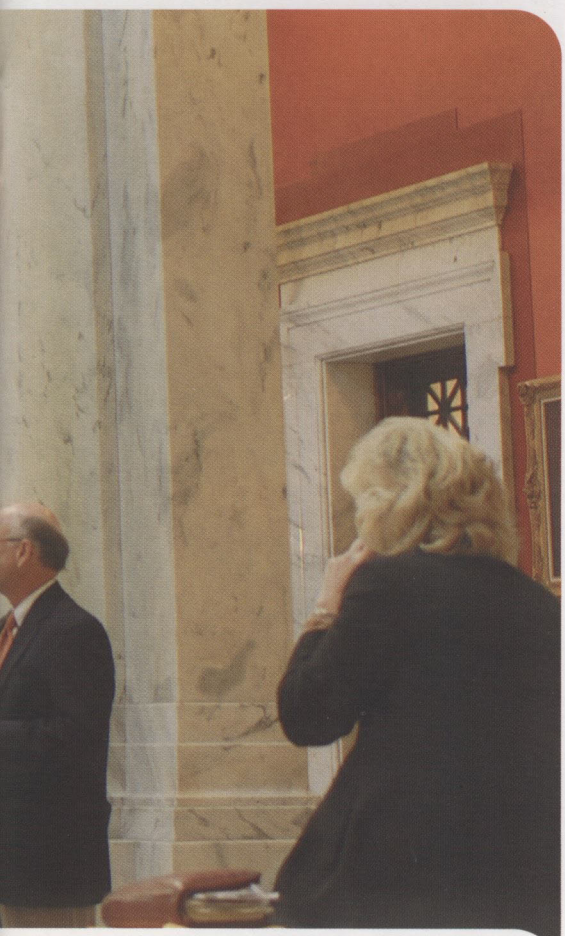


Photo courtesy of Commerce Lexington and Lee Thomas Photography

Called to Lead

It was **Shannon Turner's** (UK Law '00) last day as a state government employee. After devoting 18 months of time and energy to the historic reconfiguration of Kentucky's Medicaid program under the new federal waiver program, which will insure that thousands of Kentucky Medicaid beneficiaries continue to receive desperately needed service despite severe financial limitations on the program, Turner was returning to the private sector. Sitting among boxes and occasionally interrupted by colleagues who dropped in for last consultations, hugs, and tears, Turner described how, as a past recipient of Medicaid, she was able to handle the delicate transition from a system that was close to bankruptcy to the new system which will ensure continued service for the Commonwealth's most disadvantaged. Casually dressed and only 29, one wouldn't suspect that this frank young woman led the historic overhaul of a government program introduced long before she was born.

The Kentucky Health Choices program is the first of its kind in the nation, and other states are likely to model it in the future. Turner's vision, leadership and personal understanding of Medicaid made her exactly the right person at the right place at the right time to provide leadership on this crisis both in Kentucky and the rest of the nation.

1

Shannon Turner
2000

2

Trey Grayson 1998

While Turner was blazing new trails in Medicaid, Secretary of State **Trey Grayson** (UK Law '98) sought to bring his office into the 21st century by improving online services that were geared toward enhancing the ease of use as well as improving the information available for educational purposes. In this, he exemplified the innovative tradition in the Secretary of State's office, as did his predecessor, John Y. Brown III (UK Law '92). In the mid-1990s, Grayson and fellow Combs Scholarship recipient Amy Cubbage (UK Law '97) were a testament to the importance of student scholarships in retaining Kentucky's best and brightest. Trey Grayson, with a degree from Harvard under his belt, was headed to Wall Street when he was offered the Bert Combs Scholarship and decided to return to Kentucky. After a law degree, MBA, and his first political campaign Grayson became the youngest Secretary of State in Kentucky's history.

Purposeful and direct, Grayson quickly checked off a number of campaign promises including improving online services: a new election services Web site where Kentuckians can check their voter registration, real-time filing of business documents, updating Kentucky's election laws to include a repeal of taxpayer supported gubernatorial elections, instituting a 300 foot electioneering buffer-zone around polling stations, and work on an extensive civic literacy program that was begun in part by fellow UK Law graduate Representative Tanya Pullin (UK Law '86). "I like to tell people that my vocation used to be my avocation," said Grayson. "Now I get paid to do what I love. One to help young people get involved in their communities. Second, learning about the challenges that our election administrations face around the country after Florida, the mandates of the Help America Vote Act melding state and federal law—it was an exciting yet very challenging time to be Secretary of State and that really appealed to me. And on the business side, I have classmates who use the office, and I've enjoyed being able to improve that side of services offered through the Secretary of State's office."

3

John Gillig 1976

Two floors above Grayson on the opposite side of the Capitol, **John Gillig** (UK Law '76), Chief of Staff to Kentucky House Speaker Jody Richards represents behind-the-scenes leadership. A large part of his job consists of working to bring law makers together toward a common goal—if not always common means—of improving the lives of all Kentuckians. A man with a good measure of interpersonal finesse, Gillig has served with the Speaker since 1995, first as General Counsel and now as Chief of Staff.

Growing up in a politically active home—his mother and grandmother both served as President of the Kentucky Democratic Women's Club, his grandfather served as a state senator for several terms, and his uncle was Kentucky Supreme Court Justice James B. Stevenson (UK Law '51)— Gillig spent 11 years enforcing the law as an Assistant Attorney General before joining Speaker Jody Richard's office. While working for the Speaker, Gillig has witnessed a decided shift in state partisan politics following the Republican Party takeover of the Kentucky Senate in 2000. Yet he notes one of the most striking things he has discovered working with legislators over the years is the amount of bipartisan cooperation on many issues. "Most people would be very surprised at the large number of bills that pass unanimously or nearly unanimously. The vast majority of bills that became law in the 2006 regular session—like previous sessions—passed with over- whelming support from both Democrats and Republicans," Gillig noted. "Most of the work that goes on is of a bipartisan nature. On any given day we may have a floor fight on a particular bill but on the same day legislators will also pass four, five or six bills without a fight because it makes sense, it's the right thing to do and it helps state government provide the services that people are asking for."

Driven by Duty

State Representative **Tanya Pullin** (UK Law '86) made the journey all on her own. While some people are surprised that she can boil water, Pullin holds an undergraduate degree in Home Economics because it allowed her to "sample from the smorgasbord of college." From the time she was in 8th grade, she knew she wanted to be an attorney. The Eastern Kentucky girl found her niche in intellectual property law, worked in Hong Kong for almost 8 years, and was part of the historic negotiations in Hanoi that were the foundation of the intellectual property portion of the trade agreement between Vietnam and the US. Then, at the age of 40, Pullin left it all behind, retired, and returned to the small town of South Shore where she finally obtained the three things she felt were missing in her life: a house, a car and a dog. Deciding one day that it was "my time to serve," Pullin tirelessly campaigned for state representative and began representing Greenup County in 2001.

While she is clear that her top priority is serving her district, Pullin is actively involved in a number of statewide initiatives including advocating for the deployment of broadband all across Kentucky, energy independence, and civic education. Long before being invited to participate in a national initiative to improve civic literacy, Pullin regularly visited grade schools in her district and spoke to school children about the importance of voting and giving simple lessons on how a bill becomes law. "Politics has become so much about television that it's become unreal," Pullin comments. "I want children from an early age to understand that their elected officials are real, normal, and just like them. I'm a flesh and blood person who lives just down the road, not an imaginary television personality." Along with Senator Jack Westwood, Pullin participated in the Congressional Conference on Civic Education which ultimately led to the Civic Literacy Initiative of Kentucky which is administrated by the Administrative Office of the Courts, the Department of Education and the Secretary of State.

4

1986
Tanya Pullin

5 Susan Stokely Clary 1981

Stepping down the marble steps to the second floor of the Capitol, one will find **Susan Stokely Clary** (UK Law '81), Court Clerk, General Counsel, and Court Administrator for the highest court in the Commonwealth. She wears a dozen hats on the Court; operating as press secretary, government liaison, and is almost as institutionalized as the Court itself. Pictures of the 18 different courts she has served since 1981 rise in three columns to the top of her Capitol office's high ceilings. Clary came of age during Kennedy-inspired emphasis on service and the women's movement that brought a new cohort of women into the legal profession. "I loved the idea of jurisprudence and government. I loved the idea of the law. But when I inquired about law school admission, the woman at the placement office told me that dating a football player and being a cheerleader wouldn't get you into law school. I'd never done either! And I had a 4.0 G.P.A. in two majors!" Clary said. "So I took umbrage at that and actually applied to go to law school. So, she really helped me by getting me over that hump of being afraid to move on what you wanted to do."

The petite, commanding blonde, whose office door's nameplate is the word "Mom" spelled out in Scotch tape, courtesy of her 11-year-old son, is a specialist in Family Law who sits on the Children's Rights Committee of the Kentucky Bar Association, and is a member of the UK College of Social Work Interdisciplinary Committee on Children and Families. While she could have poured her passion for the law into a lucrative job in private practice, she views her position with the Kentucky Supreme Court as giving her a great opportunity to make a substantial impact. "I question the path I've taken sometimes when I look at my 12-year-old car" she smiles. "But you have to be happy with what you do. You spend more time in your job and in your career than anywhere else, and it's important to leave a legacy. To feel like you're part of the solution rather than part of the problem. Governance is not always glory, but in the long term you do see big victories. The juvenile code was one. Rose v. Council—being part of that opinion was monumental; having the opportunity to change the whole educational system of the state."

6 Amy Dougherty 1985

Wheelchair bound, **Amy Dougherty's** (UK Law '85) decision to become a government servant after leaving law school was driven both by the state's willingness to accommodate her physical needs as well as an ingrained sense of duty fostered by her father's military roots. "When I came to the Public Service Commission I thought it would be a good fit in terms of the work situation. We have a hearing room where people have to come to us that cut out all my disability issues," Dougherty, a senior attorney at the Kentucky Public Service Commission, explained. As a utility regulator, Dougherty's work has a real and direct impact on every citizen in the Commonwealth who has water, gas, electric and telephone service. "I spend

months fighting to hold rates down $0.05 or a dollar a month. And you think, this isn't that much benefit to any individual person. But when you look at the appropriate balance between utilities that are given protection for their service and the people that they're serving it seems to me that the government's role of fighting for not increasing rates a few pennies is a good balance. I've appreciated that role in my career. And to me, what I do is a non-military extension of the sense of service instilled by my family."

A career state government employee, Dougherty is within a few years of retirement and is already planning to pursue interests in restorative justice following her retirement. She recently returned from a trip to Nicaragua where she spent seven days working with two humanitarian organizations; one that provides basic personal hygiene items to prisoners referred to as abandonados or "the abandoned" because their families are unable or unwilling to provide these items; the other provides basic legal services such as helping a couple file for a marriage license for a reasonable fee. It is a natural extension of her service to the Commonwealth.

7

Laura Hendrix
1992

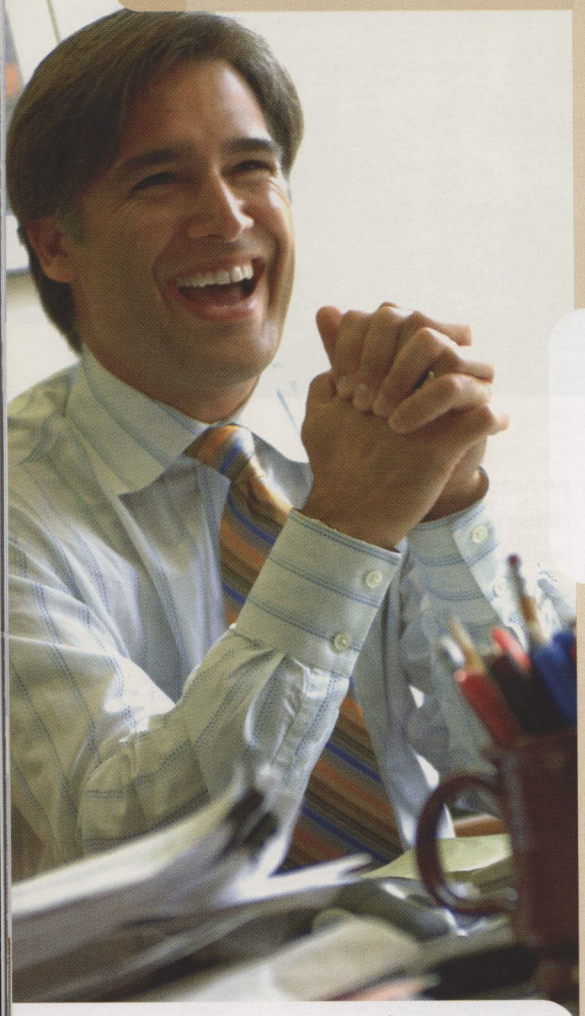
In a similar way, **Laura Hendrix** (UK Law '92) felt called to the legal profession because it gave her the opportunity to advance basic principles of justice and fairness. As a co-founder of the UK Law Student Public Interest Law Foundation, Hendrix knew early on the path she wanted to follow in her legal career. "My dad went to West Point and I grew up reading about John Kennedy and from that grew a desire to work in government service," Hendrix reflected. "I feel like wherever you are, you need to feel like you're called to your profession and are contributing something to society. I feel that even more strongly about that now that I have three kids. I hope that I can say that I am making the world a better place, making Kentucky a better place, just by doing my job."

Now, as General Counsel of the Legislative Research Commission (LRC), Hendrix serves Kentucky's elected public servants, all 138 members of Kentucky's General Assembly. Her office on the third floor of the Capitol building is crowded with thick books, stacks of research and pictures of her three children. The Commission is a non-partisan body, and Hendrix and her colleagues at LRC help to ensure that legislators get independent confidential information as they work to draft legislation. Legislators' work is protected by the speech and debate clause within the Kentucky Constitution, Section 43, and staff members strive to ensure that this legislative immunity is protected with strict confidentiality about an individual legislator's proposals, information, and research. "When a legislator calls and says, 'I have this idea,' my thought immediately goes to, 'How much information can I give this person?' That's our job, to give legislators unbiased information. Then they, as the elected official, can sit down with the information and decide which position they're going to take," Hendrix explains "You want the legislators to decide what their position is going to be, but they need the ability to have space to work through the issues in a confidential environment." The legislators can then decide to develop legislative policy based on thorough information.

The College of Law has countless alumni who, in many different ways, serve the people of the Commonwealth of Kentucky every day. The preceding profiles provide just a glimpse of the College's graduates who currently work in state government. They come from different backgrounds and generations, but they are dedicated to expending the College's long tradition of excellence in leadership. □

Q&A

AMERICAN LAW INSTITUTE
PROFESSOR JONATHAN CARDI



Q:: Your scholarship deals with the core tort concept of foreseeability. What prompted you to take on such a fundamental subject?

A:: I was invited to attend an ALI meeting, the purpose of which was to discuss a draft of the Restatement Third of Torts. The level of discussion of tort doctrine at this meeting was quite high, and the group was struggling with the Restatement's core section on duty—the element of negligence by which the court decides whether a defendant owed a duty of care under the circumstances. It struck me that neither the group nor the proposed section was confronting the central issue head-on. That issue was the role of foreseeability in courts' determination of duty. So I decided to try to tackle it myself. It was a little daunting as a first-year professor to address such a fundamental tenet of negligence law, especially one that has been debated by the field's leading scholars for many years—but big problems have always attracted me (or perhaps it is the reverse).

Q:: Your first article on the subject was cited by the Reporters for the Restatement Third of Torts, being prepared through the American Law Institute. Can you explain the issue on which you were cited and why it is so important to the work of the ALI?

A:: The concept of foreseeability concerns whether a person, or risk, or type or manner of injury was foreseeable to a particular defendant at the time of the plaintiff's injury. Foreseeability is clearly relevant to determining a defendant's tort liability, but over the past century foreseeability has increasingly been used by courts to decide the element of duty, in particular. There are a number of problems with this trend, in my view, not least of which is that foreseeability has become a powerful tool for judges to take negligence decisions away from juries, and without explaining any policy reason for doing so. My article urged the Restatement Reporters to take the fairly radical step of explicitly renouncing foreseeability's role in duty—amazingly, they bought it.

Q:: Your second article delves into the jurisprudential basis for foreseeability in tort doctrine. Explain how your second article builds on the work of the first.

A:: In seeing the reluctance of some to my proposal, it occurred to me that many judges and scholars feel that with all its practical faults, foreseeability nonetheless plays a necessary conceptual role in the element of duty. Without foreseeability, of what would duty consist? My second article attempts to prove that foreseeability's usefulness in negligence decisions is wholly encompassed by its role in the elements of breach and causation; therefore, there is no need for a foreseeability inquiry at the duty stage. I also attempt to show that duty would yet remain an important and cogent element of negligence without foreseeability.

Q:: What will the subject of your next article cover on foreseeability in tort law?

A:: I think that people have heard enough from me about foreseeability. One of my current projects involves foreseeability to some degree, however. I am currently conducting an empirical study of summary judgment decisions in tort cases over the past thirty years. I am trying to test my hypothesis that judges are increasingly granting such motions and thus removing an increasing number of cases from the hands of juries. As part of this study, I am looking into the doctrinal means by which courts grant summary judgment—one common tool is foreseeability.

Q:: In the last 10 years, there has been a reworking of our understanding of torts and fault and blame have shifted. Looking at the issue from a purely economic analysis, how has this shift changed the way we consider blameworthiness and do you think this is a good trend?

A:: I am not sure about a marked change in the past ten years. I do think that over a somewhat longer period of time, there has been a general shift toward what I call the "suck it up" approach to torts—that is, a

sentiment that unless a defendant acted VERY badly and unless the plaintiff was significantly harmed, the plaintiff should stop whining and "suck it up." I think that this shift has arisen from a number of factors—public disgust with the stereotype of the ambulance-chasing, 30% contingency-fee-grubbing plaintiff's attorney; a public reaction to some highly publicized enormous jury awards for seemingly slight harms, for example the McDonalds coffee-burn case; and the political storm over rising insurance premiums. Although there is some kernel of reality to these concerns, they have in my opinion taken on an unjustified, almost mythical status in the eyes of the public. I also find it somewhat amusing that many people who share this view of plaintiff's attorneys and tort claims quickly abandon it when they themselves are wronged. As far as an economic analysis of this trend, my guess is that it has led to fewer findings of liability and a correspondingly rising effect of under-deterrence—in other words, as fewer negligent acts lead to liability, people become more careless and cause more injuries. But this is just a guess—I am not familiar with empirical evidence on the question.

Q:: How does your research affect your teaching of first year Torts?

A:: Foreseeability is one of the most confusing concepts for 1Ls to grasp, especially since it appears in so many otherwise distinct areas of tort law. I think that my research has greatly helped me to explain foreseeability's concurrent uses to students. My students will tell you that I make no attempt to hide my opinion of foreseeability's proper place in negligence law, but I think that I also make it clear that my opinion is not widely embraced by courts—at least not yet! □

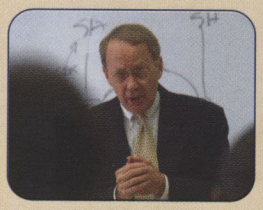
faculty notes

For up-to-date information about our faculty and their recent publication work, check the faculty section of our Web site at www.uky.edu/Law.

RICHARD AUSNESS, Ashland Oil Professor of Law, published the article "Tell Me What You Eat and I Will Tell Whom to Sue: Big Trouble Ahead for 'Big Food?'" in the *Georgia Law Review*. He also published "The Welding Fume Case and the Preemptive Effect of OSHA's HazCom Standard on Common-Law Failure-to-Warn Claim" this past spring in the *Buffalo Law Review*. Professor Ausness' article "After You, My Dear Alphonse!: Should the Courts Defer to the FDA's New Interpretation of Section 360k(a) of the Medical Device Amendments?" appears in the *Tulane Law Review*.

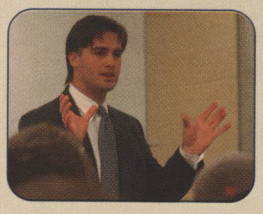
In addition, Prof. Ausness published "Book Review: Products Liability in the Twenty-First Century: A Review of Owen's Products Liability Law" in the *S. C. Law Review No. 2*. His most recent publication, "Conspiracy Theories: Is There a Place for Civil Conspiracy in Products Liability Litigation?" has been accepted for publication and will appear in the *Tennessee Law Review No. 3* in spring 2007.

CAROLYN BRATT, W.L. Matthews, Jr. Professor of Law, taught at California Western School of Law in San Diego as a visiting professor this spring.



RUTHERFORD B. CAMPBELL, JR., Law Alumni Professor of Law, will publish his article, "Managers' Fiduciary Duties in Financially Distressed Corporations: Chaos in Delaware (and Elsewhere)," in the spring issue of the *Journal of Corporation Law* (co-authored with Prof. Frost).

Prof. Campbell gave two CLE lectures: "Applied Ethics for the Modern Securities Law Practitioner" at a securities seminar in February and "Securities Issues in Horse Participation Agreements" at an equine law seminar in May.



JONATHAN CARDI, Associate Professor of Law, will publish "Über-Middleman: Reshaping the Broken Landscape of Music Copyright" in the *Iowa Law Review* (forthcoming 2006). He presented a work on judicial activism in torts at the Wake Forest School of Law at the end of April. Furthermore, he presented this same work on a panel at the Southeastern Association of Law Schools conference in July. In addition to the torts judicial activism empirical study that he conducted, he is also working on an article comparing the affirmative duties of doctors and mental health professionals to protect third parties from harm caused by patients.

Professor Cardi will teach torts and jurisprudence at Vanderbilt Law School as a visiting professor this coming fall semester. He is also writing a chapter for and co-editing a book entitled *Critical Race Realism: Intersections of Psychology, Race, and Law* that will be published by The New Press. Prof. Cardi received promotion to Associate Professor with Tenure this spring.

FACULTY **NOTES**–continued

ALLISON CONNELLY, Associate Professor of Law and Director, Legal Clinic, received the Chief Justice's Special Service Award "in recognition of her distinguished service to the Court of Justice as a legal educator, for administering the Kentucky Legal Education Opportunity Program (KLEO), and for her efforts in promoting diversity within the *Bench and Bar* of the Commonwealth of Kentucky."

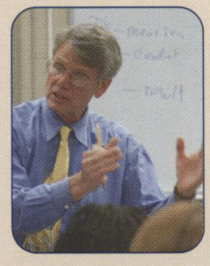
HELANE DAVIS, Director, Alvin E. Evans Law Library and Assistant Professor of Law, will publish "Web Resources Cited in Select Washington Law Reviews, 2001–03,"*L. Lib. J.* (forthcoming fall 2006).

Professor Davis is currently completing work on "Jumpstarting Your Career" for inclusion in *A Day in the Life: Essays on Academic Law Librarianship*, which will be published by William S. Hein & Company.

MARY DAVIS, Stites & Harbison Professor of Law, recently completed her third article on federal preemption of products liability laws, "Discovering the Boundaries: Federal Preemption of Prescription Drug Labeling Product Liability Actions." Professor Davis was a featured speaker at the University of Louisville School of Law on this subject in March 2006. The article is currently under review at law journals for publication.

Professor Davis is currently completing work on the 5th edition of her text book on products liability with Professors David Owen and John Montgomery of the University of South Carolina. The fifth edition will be published in 2007. The 2006 Supplement for the fourth edition was published in August 2006.

Professor Davis continues to serve on the Member's Consultative Group of the American Law Institute's project on "Principles of the Law of Aggregate Litigation" and she also is now involved in the American Law Institute's work on the "Restatement Third of Torts: Economic Loss."

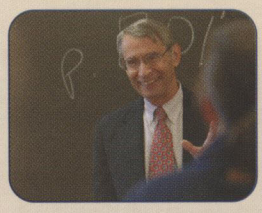


WILLIAM H. FORTUNE, Robert G. Lawson Professor of Law, published the sixth edition of *Psychology and the Legal System* this spring (as co-author). Prof. Fortune was also a Panelist at the Kentucky Bar Association annual convention in June.

CHRISTOPHER W. FROST, Frost Brown Todd Professor of Law, served as the treasurer of the Office of Kentucky Legal Services Programs and on the Board of the Fayette County Bar Association. He also serves on the American Board of Certification and on the Advisory Board of the American Bankruptcy Institute Law Review. He is Contributing Editor of *West's Bankruptcy Law Letter* and writes a semi-monthly article on bankruptcy topics. Professor Frost and Professor Rutherford Campbell's article "Managers' Fiduciary Duties in Financially Distressed Corporations: Chaos in Delaware (and Elsewhere)" will be published in the spring issue of the *Journal of Corporation Law*.

EUGENE R. GAETKE, H. Wendall Cherry Professor of Law, published "Expecting Too Much and Too Little of Lawyers" as forthcoming in the summer 2006 issue of volume 67 of the *University of Pittsburgh Law Review*.

Prof. Gaetke has also authored an article entitled "Lessons in Legal Ethics from Reading about the Life of Lincoln" (forthcoming 2007).



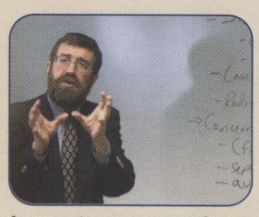
ALVIN L. GOLDMAN, William T. Lafferty Professor of Law, recently became a member of the College of Labor and Employment Lawyers. In early September, at a conference in Brussels, Belgium, Professor Goldman will present a paper on Telework Law in the U.S., after which he will attend the World Congress of the International Society for Labor and Social Security Law in Paris, France.

In June, Professor Goldman was a panelist at a conference on teaching employment law which was sponsored by the Labor Law Group. Professor Goldman is a member of the committee on amicus briefs for the National Academy of Arbitrators and chairs its committee on liaison with other labor and employment law related organizations.

MARY LOUISE EVERETT GRAHAM, Wendell H. Ford Professor of Law, is on sabbatical this fall, working on a new edition of *Kentucky Domestic Relations*. Professor Graham is also re-working the material for her seminar in Law and Literature. In the spring the seminar will be taking on the topic "War, Law and Literature," reading *The Trojan Women*, *Slaughterhouse Five*, and *A Thread of Grace*.

ROBERTA M. HARDING, Willburt D. Ham Professor of Law, published "Celluloid Death: Cinematic Depictions of Capital Punishment" in *The Death Penalty, Vol. I* (Austin Sarat ed. 2005) and "Reel Violence: Popular Culture and Concerns about Capital Punishment in Contemporary American Society" in *Law and Popular Culture*, ed. Michael Freeman (Oxford University Press 2005). Prof. Harding will also publish "Capital Punishment: Methods of Execution" and "Capital Punishment and Race Discrimination" in *The Encyclopedia of American Civil Liberties* (Routledge) this fall.

Professor Harding was the recipient of the 2005 Robert M. & Joanne K. Duncan Faculty Award.

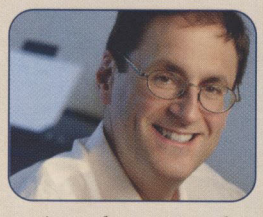


MICHAEL P. HEALY, Associate Dean, Academic Affairs and Dorothy Salmon Professor of Law, has written an article entitled "Florida East Coast Railway and the Structure of Administrative Law" that will be published in the *Administrative Law Review*. This paper will be published together with a group of papers that were discussed at the Administrative Law Discussion Group hosted by the University of Louisville in May 2006.

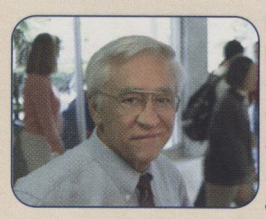
Professor Healy is moderating a panel that he organized at the 2006 annual meeting of the Southeastern Association of Law Schools. The panel will address the extent to which the principle of sustainable development offers insights into environmental law and policy. Professor Healy is continuing work on a law review article discussing sustainable development and U.S. environmental law. Professor Healy is also continuing to serve as a Peer Reviewer for the Fulbright Senior Specialists Program.

NICOLE HUBERFELD, Assistant Professor of Law, will publish an article entitled "Tackling the 'Evils' of Interlocking Directorates in Healthcare Nonprofits" in the *Nebraska Law Review* in the spring. She was appointed to *Who's Who in Medicine & Healthcare* for 2006-2007. Professor Huberfeld has also been designated a Bioethics Associate in the Department of Behavioral Science at the UK College of Medicine, which requires assisting the Program for Bioethics with legal issues in bioethics and bioethical decision making.

Currently, Professor Huberfeld is working on an article examining the cross section between Congress' power to spend and federal aspects of healthcare and health-care legislation. More specifically, her current project studies the Supreme Court's Spending Clause jurisprudence and attempts to predict the new direction that this case law will move given that Chief Justice Rehnquist and Justice O'Connor, two architects of the current Spending Clause jurisprudence, are no longer on the Court. This analysis will be applied to the more specific context of the controversial Medicare Clawback provision, an aspect of the Medicare Part D program that is being challenged by a number of states, including Kentucky.



MARK F. KIGHTLINGER, Assistant Professor of Law, is writing about the EU and U.S. legal regimes that protect the privacy of personal information on the Internet. Building on the work of such scholars as Max Weber and Alasdair MacIntyre, Professor Kightlinger is examining what might be called the "bureaucratization of privacy." In addition to carrying forward his research agenda, this project dovetails with his teaching, which includes courses on administrative law and Internet law. He also serves as faculty advisor to the *Journal of Natural Resources and Environmental Law* and to the new Gay & Lesbian Law Caucus.



ROBERT G. LAWSON, Charles S. Cassis Professor of Law, has recently finished a law review article entitled "Turning Jails Into Prisons – Collateral Damage from Kentucky's War on Crime." This article discusses the overcrowded conditions in local jail systems and the problems of using that system for long-term incarceration of state inmates. The core of the article is about visits that Prof. Lawson made to nine jails across the state and to three of the state's overcrowded prisons. The article will be published in early fall in the *Kentucky Law Journal*.

In addition, Prof. Lawson was selected by the Kentucky Department of Public Advocacy to receive the Nelson Mandela Lifetime Achievement Award for his work in criminal law and criminal defense. He received this award at the Public Advocacy's dinner on June 12, which was held during the 34th Annual Public Defender Education Conference in Erlanger, Ky.

In addition, Professor Lawson was the 2005 recipient of the Charles Cassis Award for the best faculty article in the *Kentucky Law Journal*.

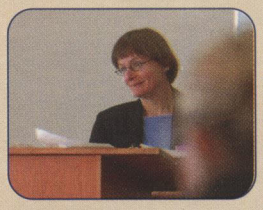
FACULTY **NOTES**–continued

DOUGLAS C. MICHAEL, Edward T. Breathitt Professor of Law, published "Self-Regulation for Safety and Security: Final Minutes or Finest Hour?" in the *Seton Hall Law Review*.

DAVID H. MOORE, Associate Professor of Law, has drafted an article entitled "An Emerging Uniformity for International Law," which will appear as the lead article in Volume 75 of the *George Washington Law Review*. Moreover, along with Duke Law Professor Curtis A. Bradley and Harvard Law Professor Jack L. Goldsmith, Professor Moore authored an article entitled "Sosa, Customary International Law, and the Continuing Relevance of Erie," which will appear in the *Harvard Law Review* in 2007. In addition, Prof. Moore will publish "Setting the Record Straight: Sosa v. Alvarez-Machain and the Debate over Customary International Law" (anticipated 2007 in an *American Enterprise Institute* book). Finally, Professor Moore has drafted an article that builds on a panel presentation he gave at the American Enterprise Institute's Outsourcing American Law conference held on February 21, 2006 in Washington, D.C., at which Justice Scalia was the keynote speaker. Professor Moore's presentation was broadcast on C-Span, and the article deriving from his presentation will be published along with the conference proceedings.

Professor Moore's participation in the confirmation process of Justice Samuel A. Alito earlier this year included giving media interviews, attending the confirmation hearings in Washington D.C., and meeting with President Bush and many other former Alito clerks in the Oval Office prior to participating in a news conference with President Bush.

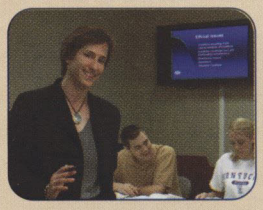
In addition, Prof. Moore was invited to serve (and will be accepting the invitation) as an inaugural member of the Academic Advisory Board for the International Center for Law and Religion Studies at Brigham Young University.



KATHRYN MOORE, Everett H. Metcalf, Jr. Professor of Law, wrote a report on family benefits under the American Social Security system for the French government's Conseil d'orientation des retraites. She presented the report at a meeting in Paris with several other international experts. She will continue to work with the Conseil on its comparative study of survivors' benefits in seven different countries.

Prof. Moore continues to help edit the annual supplements to the ABA's Employee Benefits Law treatise and, in light of her extensive work, was named an Associate Editor of the treatise.

She also wrote an article entitled "Social Security Reform in 2005 and Beyond" that will be published in the *NYU Review of Employee Benefits and Executive Compensation* (forthcoming 2006). In addition, Prof. Moore completed the 2006 supplements to her employee benefits casebook and statutory supplement.

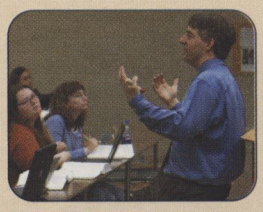


LORI RINGHAND, Associate Professor of Law, published "'Judicial Activism Today" in FCBA's March/April issue of *Bar News. Constitutional Commentary*, one of the two most prestigious peer-reviewed constitutional law journals, recently accepted Professor Ringhand's article "The Changing Face of Judicial Activism: An Empirical Examination of Voting Behavior on the Rehnquist Natural Court," in which she conducted an empirical analysis of the Rehnquist court. In addition, the article has prompted the editors of the journal to propose a symposium around the article with some of the prominent names in the field. The editors have also proposed making Professor Ringhand a guest editor of the journal for the symposium issue.

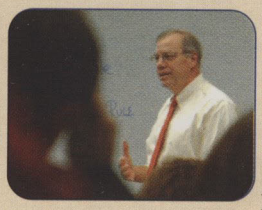
Professor Ringhand will also publish "The Rehnquist Court: A 'By the Numbers' Retrospective," forthcoming in the *University of Pennsylvania Journal of Constitutional Law* and "UK Election Law: A Critical Examination" (a review of the book *UK Election Law*, by Bob Watt), forthcoming in *Law and Politics Book Review*, as well as "The Roberts Court: Year 1" forthcoming this fall in the *Tennessee Law Review*.

Prof. Ringhand attended the Southeastern Association of Law Schools Annual Conference as a panelist regarding the meaning of "judicial activism." She also was a guest speaker at the Fayette County Women's Bar Association Luncheon.

Prof. Ringhand received promotion to Associate Professor with Tenure this spring. She also received the Teacher Recognition Award from the Black Law Student's Association.

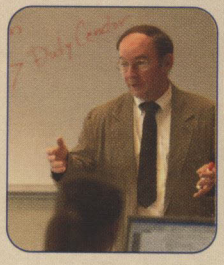


PAUL E. SALAMANCA, James & Mary Lassiter Professor of Law, last fall, published an article entitled "Video Games as a Protected Form of Expression" in the *Georgia Law Review*. He is currently co-authoring an article about separation of powers with former Kentucky Supreme Court Justice James Keller.



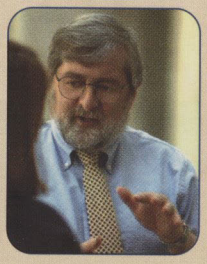
ROBERT G. SCHWEMM, Ashland Professor of Law, has recently given presentations on fair housing law in San Diego, Chicago, Washington and Los Angeles. The annual update to his book, *Housing Discrimination: Law and Litigation*, was published in July.

In the spring semester of 2007, Professor Schwemm will be a visiting professor at the John Marshall Law School in Chicago. He is currently doing research on two articles, one about the continuing nature of racial discrimination in apartment rentals and the other dealing with a Kentucky slave case, *Strader v. Graham*, that was decided by the U.S. Supreme Court in 1851 and was one of the foundational precedents for the *Dred Scott* decision.



RICHARD H. UNDERWOOD, Spears-Gilbert Professor of Law, published a 2006 edition of the *Kentucky Evidence Courtroom Manual*, and a 2006 supplement to *Modern Litigation and Professional Responsibility Handbook 2nd ed.* Professor Underwood also published an article about an infamous Carter County murder trial, "Stella Kenney: A Little Problem in Evidence," in the *Journal of Southern Legal History*. He has also placed three articles in West Virginia University's Legal Studies Forum. "Mr. Howe's Last Case" is about a turn of the century murder trial in Long Island City, New York, which broke William "Big Bill" Howe of the notorious firm of Howe and Hummel. Professor Underwood is working with UK History Professor Dan Smith (aka "Doc Hollywood") to develop a screenplay based on this story. The other two articles are "The Other Batson Case", about a turn of the century murder in Louisiana; and "Arch & Gordon: The Crime Behind the Ballad," the true story of the killing of a Governor's son in old Louisville.

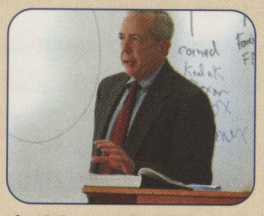
Professor Underwood will be on sabbatical in the fall, and he hopes to complete a book on southern murder ballads during that time.



ALLAN W. VESTAL, Dean and Professor of Law, has an article coming out in the *Saint Louis University Law Journal*, co-authored with Tom Rutledge (UK Law '90), entitled "Disappointing Diogenes: The LLC Debate That Never Was." Dean Vestal and Mr. Rutledge also published an article in the *Journal of Business Entities* entitled "Former Clients and Changes in the Business Entity Law—Just One More Place Where Something May Go Wrong."

In June, Dean Vestal presented a paper entitled "Private Ordering Within Closely Held Companies" at a conference on Reform of Private Company Law at the Hague and was sponsored by the Dutch Ministry of Justice.

Dean Vestal is also completing work on two articles, one entitled "Wide Open: Nevada's Emerging Intra-State Partnership Law Market" and the other entitled "Watching for Pigs on the Wing…Envisioning a Robust, National, Interstate Market in Private Firm Law."



HAROLD R. WEINBERG, Wyatt Tarrant & Combs Professor of Law, published an article, "Is the Monopoly Theory of Trademarks Robust or a Bust?," in the *Journal of Intellectual Property Law* (2005).

SARAH N. WELLING, Wendell H. Ford Professor of Law, is on contract to write the annual supplements for *Federal Practice & Procedure, Vols. 3 and 3A* (formerly known as *Wright & Miller*), covering Federal Rules of Criminal Procedure 31 through 42. The 2006 supplement was published in June 2006.

Furthermore, Prof. Welling is the reporter of the 2005 edition of *Sixth Circuit Pattern Criminal Jury Instructions*, published by ThomsonWest, as well as a writer for the instruction updates that are posted on the Sixth Circuit Web site.

RICHARD H. WESTIN, Professor of Law, spoke on the subject of "The Use of IRA Annuities for Estate Planning Purposes" in May 2006 to the Society of Trust and Estate Practitioners.

new faculty faces

AT THE COLLEGE OF LAW

HELANE DAVIS, Director, Alvin E. Evans Law Library and Assistant Professor of Law, joined the law library faculty in February 2005 as the library's Associate Director and Head of Public Services. In July 2006, Davis became the library's director. Prior to joining the law library, she was affiliated with the libraries at Seattle University School of Law and Howard University School of Law. In addition to teaching Advanced Legal Research at Howard University School of Law and Basic Legal Research at University of Maryland University College, Professor Davis has presented on legal research and online legal resources in various settings. She received her *juris doctorate* from the University of Iowa in 1985, and her M.L.I.S. from the University of Washington in 2004.

ANDREA L. DENNIS, Assistant Professor of Law, joined the College of Law faculty in 2006. Prior to this, she earned her *juris doctorate* at New York University School of Law. Dennis' areas of academic research include criminal law, children and the law, and racial presumptions in the American legal process. She comes to the College with a number of years of professional legal experience including work as a civil prosecutor of child abuse and neglect cases, and three years' experience as an assistant federal public defender in Maryland. Most recently, Dennis served in the U.S. Department of Labor as a senior associate in the National Office of Job Corps - Division of Program Planning and Development where she engaged in long-range, strategic analysis and planning related to vocational training programs.

MELYNDA J. PRICE, Assistant Professor of Law, joined the UK College of Law faculty in 2006. She earned her *juris doctorate* at the University of Texas School of Law and will soon defend her doctoral dissertation in Political Science at the University of Michigan. Price is a specialist in research related to the intersection of African-American religious beliefs and how they impact the community's understanding of the death penalty. Her research dovetails with a legal career that has included working with cases of political asylum and the death penalty.

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UPCOMING COURSES

November 2 & 3/2006
Workers' Compensation Institute
Lexington, Kentucky

February 2007
11th Biennial Business Associations Law Institute
Louisville, Kentucky

April 2007
Annual Legal Issues for Financial Institutions Conference
Lexington, Kentucky

May 2 & 3/2007
Annual National Conference on Equine Law
Radisson Plaza,
Lexington, Kentucky

May 2007
Biennial Judge Joe Lee Bankruptcy Institute
Lexington, Kentucky

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class notes

LAW ALUMNI ASSOCIATION

One of the best things about being a graduate of the UK College of Law is our strong alumni network. The UK Law Alumni Association provides opportunities to keep up with your friends and classmates from law school, to receive news about developments at the College, and to work as a volunteer to assist the College.

Your Alumni Association dues and donations provide scholarships that entice high-quality students to choose our college over other out-of-state law schools. Our alumni network assists new and recent graduates in their quest for employment ensuring that the brightest young Kentuckians stay and make a positive impact in our Commonwealth. Every year the UK Law Alumni Association welcomes incoming first year students with a picnic their first week, provides current students with a delicious continental breakfast during finals week, and assists the College in selecting our Hall of Fame recipients.

The UK Law Alumni Association is distinct from the University of Kentucky Alumni Association; the Law Alumni Association is the alumni group of the College of Law, established and maintained to include and support the College.

Join or to renew your membership in the Law Alumni Association by visiting:

www.uky.edu/Law/alumni/

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NOTEWORTHY

U.S. Magistrate Judge **J. GREGORY WEHRMAN** donated his left kidney to Assistant U.S. Attorney **E.J. WALBOURN**, who had life-threatening kidney disease. The *Louisville Courier-Journal* reported, "they aren't related, or even friends. I just wanted to offer somebody who deserved it a chance at life," said Wehrman, 62, who sits in Covington.

Walbourn, 54, who supervises a four-lawyer office in Northern Kentucky, said, "The words 'thank you' seem inadequate. It is just an absolutely magnanimous gesture of humanity."

To avoid even the appearance of a conflict, Walbourn stopped appearing before the judge once he agreed to the donation last November. And the two agreed that Walbourn won't appear in his court in the future on any matter requiring the judge's discretion. Walbourn, who is co-prosecutor—with now Lt. Gov. Steve Pence—of the 21 defendants convicted in the state government and corruption probe, nicknamed BOPTROT, says his doctors say he can return to work in one month. Wehrman, who has been a magistrate since 1975, expects to be back on the job in one week. He and Walbourn hope that publicity over the transplant will encourage others to give, saying, "There are 68,000 on the waiting list, and a lot of them are not going to make it."

Wehrman was released two days after the transplant June 20 at Cincinnati's Christ Hospital, and Walbourn four days later. Both are healing well. (story taken from *Lousiville Courier-Journal*, 6/30/06)

CLASS ACTIONS

1951

2006 Hall of Fame Inductee

Serving his clients and community with skill and dedication, **G. CHAD PERRY** has embodied the spirit of leadership in his practice and in his community.

After graduating from the College in 1951, Perry served as a first lieutenant in the United States Air Force JAG program from 1951-1953 and continued in the Air Force Reserves for 25 years. Returning to his hometown of Paintsville, Kentucky, Perry began a legal practice lasting over 50 years. He has served as city attorney twice during that time and was elected to city council. As a partner with Perry, Preston and Miller, he practices in the area of workers compensation, medical malpractice and general litigation.

He has served as general counsel for the Big Sandy Area Development Authority, and as a trustee of Eastern Kentucky University and regional educational institutions and banks. At the College of Law, Perry has been a Lafferty Society member and a long-time member of the Visiting Committee. He has been a University of Kentucky Fellow for over 25 years.

To eliminate the shortage of primary care physicians in rural Eastern Kentucky, Perry and his wife Judy led the founding of the Pikeville College School of Osteopathic Medicine in 1993. He has served as a board member for the College and received an honorary doctorate in 2001.

In recognition of these and many other accomplishments, Perry was named Outstanding Private Citizen by the Eastern Kentucky Leadership Conference in 1999.

1956

CLASS OF '56 50th REUNION
OCTOBER 6-8

1957

OLIVER WADDELL, former CEO and president of First National Bank of Cincinnati, was recently named Covington Education Foundation's 2006 Person of the Year for his efforts in founding the Waddell Center for Multiple Sclerosis at the University Hospital in Cincinnati. After his wife Virgilee developed multiple sclerosis, Waddell retired to care for her. The Waddell Center for Multiple Sclerosis is named in her honor. In 2005, Oliver and Virgilee celebrated their 50th wedding anniversary.

1961

J.B. JOHNSON, JR. has announced his retirement as U.S. Magistrate Judge, effective August 31, 2006.

1965

WILLIAM G. KOHLHEPP has been voted as a 2006 Ohio Super Lawyer. Kohlhepp is a partner with Cors & Bassett, LLC in Cincinnati, Ohio.

ARNOLD TAYLOR has been elected chair of the Judicial Ethics Committee. Mr. Taylor practices law with O'Hara, Ruberg, Taylor, Sloan & Sergent.

1969

U.S. Magistrate Judge **J. GREGORY WEHRMAN** donated his left kidney to Assistant U.S. Attorney E.J. Walbourn, who had life-threatening kidney disease. (please see related story on page 22)

1970

E. ANDRE BUSALD was awarded the 2005 Distinguished Lawyer Award by the Northern Kentucky Bar Association in December. He is with Busald Funk Zevely in Florence, Ky.

1971

JAMES R. ELKINS, who edits the *Legal Studies Forum*, has announced the publication of its third collection of poetry by lawyers. Copies of the collection may be obtained by contacting him at West Virginia University College of Law at jelkins@labs.net.

2006 Hall of Fame Inductee

Judge **JULIA KURTZ TACKETT** is the longest serving female judge in Kentucky, has broken many gender barriers and has been a role model and mentor for countless attorneys, as well as serving on the Kentucky Court of Appeals. On June 1, 2006, she retired ending a notable career in law.

Judge Tackett was the first female prosecutor—state or federal—in Kentucky. She is the first woman to serve as judge in the Eastern District of Kentucky, as well as the first woman to serve as President of the Kentucky Bar Association Young Lawyers Section.

Before election to the Court of Appeals in 1999, Judge Tackett served in six consecutive terms as district judge. Prior to that, she served as Fayette County Assistant Commonwealth's Attorney, federal public defender for the Eastern District, and law clerk for the Chief Justice of the then Court of Appeals (now Supreme Court).

Judge Tackett has served her local community and the Commonwealth in a wide variety of leadership roles over the years. She currently serves on the Board of Advisors of the Lexington Public Library and has served on the boards of the Kentucky Mountain Laurel Festival, Kentucky Educational Television and United Cerebral Palsy of the Bluegrass. At the University of Kentucky, Tackett has served as a University Trustee; is past president of the UK National Alumni Association; has served on the College of Law's Visiting Committee; and has served as an adjunct instructor at the College.

(continued on next page)

2006 DEAN'S CIRCLE FIRMS

Each year the College of Law Alumni Association recognizes those firms which have achieved one hundred percent Annual Fund participation among their College of Law graduates. This year we are pleased to recognize the following firms as Dean's Circle participants:

BELL, ORR, AYERS & MOORE, PSC
Bowling Green, Kentucky
Bell, Orr, Ayers & Moore is Bowling Green, Ky.'s oldest general practice, full-service law firm. They are committed to providing quality, cost effective legal service to their clients while adhering to the highest ethical standards.

BRYANT & KAUTZ, PSC
Paducah, Kentucky
Bryant & Kautz law firm is dedicated to providing clients with the most comprehensive and experienced representation in Western Kentucky.

DENTON & KEULER, LLP
Paducah, Kentucky
Denton & Keuler was established in 1979, upon the fundamental tenets of quality, quick service, and client satisfaction. They offer in-depth experience in the litigation of commercial, real estate, and corporate law.

ENGLISH, LUCAS, PRIEST & OWSLEY, LLP
Bowling Green, Kentucky
Established in 1973, English, Lucas, Priest & Owsley has provided leadership and legal counsel throughout the community with a strong commitment to excellence both professionally and personally.

FOWLER, MEASLE & BELL, LLP
Lexington, Kentucky
Fowler, Measle & Bell is one of the most established and experienced law firms in Kentucky dating back to 1910. The firm offers clients a unique alternative to traditional large firms for sophisticated legal services.

HARLIN PARKER
Bowling Green, Kentucky
With a legal team built on a solid foundation of experience and legal expertise, Harlin Parker offers clients a distinct alternative to those seeking legal representation in today's competitive legal services market.

GOLDBERG & SIMPSON, PSC
Louisville, Kentucky
Goldberg & Simpson's attorneys are skilled practitioners, well known in the community and at the Bar, who provide a wide range of experiences and expertise to a diverse group of public and private clients.

GREENEBAUM DOLL & McDONALD, PLLC
Lexington, Kentucky office
For more than 50 years, Greenebaum has distinguished itself as a progressive business law firm and supports one of the most respected business and commercial law practices in the region.

JACKSON KELLY, PLLC
Lexington, Kentucky office
Established in 1822, Jackson Kelly has a long-standing place in the legal community, with time-honored traditions dating back to antebellum Virginia and the Presidency of James Monroe.

McMURRY & LIVINGSTON, PLLC
Paducah, Kentucky
For nearly 40 years McMurry & Livingston has distinguished itself as a quality firm committed to helping its clients. The firm has a straightforward philosophy: caring service, sound advice and vigorous advocacy.

STURGILL, TURNER, BARKER & MOLONEY, PLLC
Lexington, Kentucky
Sturgill, Turner, Barker & Moloney has been dedicated to providing clients with the highest quality of legal services for over 50 years. Their firm is built on a commitment to client service, professionalism, integrity and community service.

WOODWARD, HOBSON & FULTON, LLP
Louisville, Kentucky office
Woodward, Hobson & Fulton is committed to representing clients professionally, ethically and comprehensively. With it's many practice areas, clients have access to a great breadth of expertise in areas related to their primary needs.

WYATT, TARRANT & COMBS, LLP
Louisville, Kentucky office
Wyatt, Tarrant & Combs traces its roots to the early 1800s and adheres to a philosophy that the practice of law requires sound advice, prompt service, vigorous advocacy, thoughtful counseling and attention to detail.

CLASS NOTES–continued

1973

JERRY MARKHAM, Professor of Law with Florida International College of Law authored *A Financial History of Modern U.S. Corporate Scandals, From Enron to Reform* that was published by M.E. Sharpe. This book follows Markham's trilogy on the financial history of the United States that was selected as a Choice Outstanding Academic Title for 2002.

1973

JACK R. CUNNINGHAM has been named to Frost Brown Todd, LLC's *pro bono* team. He will continue to practice in the areas of probate, estate planning and trust administration.

1974

Arizona Superior Court Judge **KENNETH FIELDS** and fellow alum Judge Janet Barton (UK Law '85) are two of three Arizona Superior Court judges currently serving on the special Arizona Complex Civil Litigation Court, a special pilot court that primarily handles intricate business cases. Fields has served on the court since 2002 and was appointed by the Honorable Colin Campbell, Presiding Judge, out of a field of approximately 166 judges. He is currently a director of the Association of Business Court Judges.

STEPHEN B. BRIGHT is a focus in the documentary film *Fighting For Life in the Death-Belt*. The film is an inside look at the efforts of Stephen B. Bright and other lawyers at the Southern Center for Human Rights, in Atlanta, to save the lives of two clients on death row. Bright ran a public interest law firm for 23 years, until this past January, freeing him up for full-time lawyering and part-time teaching. Bright is the Southern Center's president and senior counsel.

ROBERT F. HOULIHAN coached the University of Kentucky's Black Law Students Association, who won the Thurgood Marshall Mock Trial Regional Competition in February 2006, to become one of only twelve teams to compete in the national competition in Washington, D.C. Mr. Houlihan is a partner with Savage Elliot Houlihan Moore Mullins & Erdmann.

TIMOTHY WILLS, a partner in the Lexington, Ky. office of Bowles Rice McDavid Graff & Love LLP, has been elected to the firm's Executive Committee. He will serve on the committee for a four-year term.

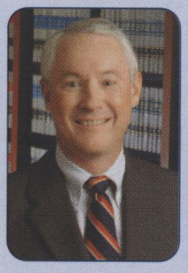
CLARENCE A. "WOODY" WOODALL, III published an article in the March 2006 issue of *Bench & Bar* entitled "Meditation Practice in Kentucky." He is a partner with Woodall & Quinn, PLLC in Cadiz, Ky., and is the owner of Lincoln Alternative Solutions, Inc.

1976

GWENDOLYN HORTON has been hired as a staff attorney by the Legal Aid Society of Louisville, Ky.

PEGGY P. PATTERSON has announced her retirement as U.S. Magistrate Judge in August 2006.

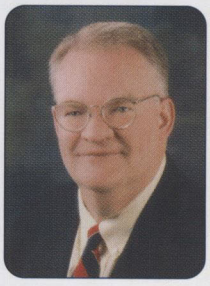
1977



RICHARD H. C. CLAY, a partner in the Woodward, Hobson & Fulton Louisville office, has been appointed to membership in the Kentucky State Advisory Committee (SAC) by the United States Commission on Civil Rights. Dick Clay practices in the areas of complex litigation, pharmaceutical and medical device litigation, appellate practice and administrative law. He serves as Kentucky counsel for several major pharmaceutical companies confronting nationwide claims.

GEORGE E. FOWLER, JR. published "Report on a Survey of Kentucky Appellate Judges" in the May 2006 issue of *Bench & Bar*. He is the staff attorney for the Kentucky Court of Appeals, and is a member of the National Association of Appellate Court Attorneys.

2006 Hall of Fame Inductee



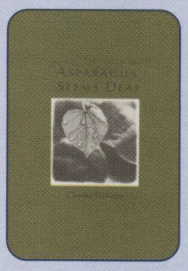
An attorney of great personal integrity, passion and common sense, **PIERCE W. HAMBLIN** is a highly respected trial attorney and one of the most sought-after mediators in the Commonwealth. Hamblin has successfully mediated thousands of cases and is well-known for his fairness, thoroughness, and efficiency.

He is a partner with Landrum & Shouse in Lexington and practices in the areas of tort law, workers compensation law, medical and legal malpractice, and bad faith litigation.

Following graduation, Hamblin entered the United States Army where he became certified as both a tactical intelligence officer and a counter-intelligence officer. He earned a Judge Advocate General Degree from the University of Virginia College of Law in 1986. Currently, Hamblin serves as Captain in the United States Army Reserves.

Since 1980, Hamblin has taught litigation skills at the College as an adjunct instructor, infusing his enthusiasm for the law in hundreds of aspiring attorneys. He is also a past member of the Board of Directors of the Kentucky Bar Foundation of the Kentucky Bar Association; is a member of the Kentucky Defense Attorneys Association and the Kentucky Academy of Trial Attorneys; is chair of the Fayette County Bar Association Civil Litigation Section; and is Special Judge for Mass Tort Litigation in Eastern Kentucky.

U.S. Magistrate Judge J. Gregory Wehrman donated his left kidney to Assistant U.S. Attorney **E.J. WALBOURN**, who had life-threatening kidney disease. (please see related story on page 22)



1979

CHARLES D. WILLIAMS was recently honored with The Tom Wallace Farm Forestry Award. The owner of over 1,100 acres of Kentucky woodlands in Hart County. Williams is a strong advocate of forest management and has published several articles promoting conservation techniques as well as hosting a radio program. He is also the past recipient of the Kentucky Forestry Stewardship Award.

His talents and interests also extend to writing poetry and Williams recently published a book of poems entitled *Asparagus Seems Deaf*. The book includes a section of poems written while Williams was a law student at the College including such works as "Ode to Wilburt Ham," "We Are All Born Lawless As Dogs," and "The Rule in Shelley's Case." Another poem from the book, "Upon Discovering That My Daffodils Were Taking Leave without a Word," has been published in *The Kentucky Anthology: 200 Years of Writing in the Bluegrass State.*

1980

MICHAEL WELLS is a new member of the law firm of Goldberg & Simpson, PSC in Louisville, Ky. He practices in insurance defense and general litigation.

1981

CLASS OF '81 25th REUNION
OCTOBER 6-8

JIM NEWBERRY, has authored a chapter in the recent book *Inside the Minds: Telecom Law Best Practices*. His chapter is titled "Constantly Changing Technology and How it Impacts Business." Newberry is a partner with Wyatt, Tarrant & Combs, LLP, and practices in their Lexington, Ky. office.

CLASS NOTES–continued

1982

DONALD H. COMBS has been selected to serve on the Judicial Ethics Committee, filling the position left by Uhel O. Barrickman (UK Law '47), who passed away in September 2005. Mr. Combs is the senior partner with Combs and Combs, PSC in Pikeville, Ky.

R. EBERLY DAVIS has joined the firm of Stoll Keenon Ogden PLLC, in their Lexington, Ky. office. His practice focuses on mineral and environmental law.

RICHARD M. HOPGOOD has joined Wyatt, Tarrant & Combs, LLP as a partner in their Lexington, Ky. office. He will practice in the areas of real estate, oil and gas acquisition, development and operation and commercial lending.

1984

DARYLL W. MARTIN was recently named Executive Vice President and Director of Strategic Operations for Regions Insurance Group, a wholly owned subsidiary of Regions Financial Corp. Martin comes to Regions from USI Southwest's Austin, Texas, office where he was operating company president. Martin is a member of the Maryland State Bar Association and currently serves as a member of the Alumni Board of Centre College and is its incoming President.

1985

Arizona Superior Court Judge **JANET BARTON** and fellow alum **JUDGE KENNETH FIELDS** (UK Law '85) are two of three Arizona Superior Court judges currently serving on the special Arizona Complex Civil Litigation Court, a special pilot court that primarily handles intricate business and complex litigation cases. Barton has served on the court since 2005 and was appointed by the Honorable Barbara Mundell out of a field of approximately 166 judges. Fields is also the Treasurer of the Association of Business Court Judges and is the Associate Presiding Judge of the Maricopa County Superior Court's Civil Department.

1986

CLASS OF '86 20th REUNION
OCTOBER 6-8

LAURA DAY DELCOTTO of Wise DelCotto PLLC in Lexington was inducted as a Fellow of the College by the American College of Bankruptcy on March 17, 2006. She was one of twenty-two nominees from the United States and abroad.

1987

JAMES (JIM) DAVIS, is co-founder of a new firm Davis Munck Butrus. A Dallas-based trial, transaction and technology law firm, Davis Munck, P.C. has combined with Butrus Khoshbin Wilson Vogt, LLP, a litigation firm focused on large-scale commercial disputes.

The new technology boutique, Davis Munck Butrus, P.C., will have offices in Dallas, TX and Charlotte, N.C. Under the new moniker, the firm will handle intellectual property procurement, management, licensing and litigation, as well as all phases of complex commercial litigation and business transactions. Davis Munck Butrus is now home to 30 lawyers, including 11 who hold engineering degrees. These attorneys are highly prized among businesses with technology-related legal issues, in patent cases and other matters.

1988

TAMRA GORMLEY has been named the Director of Statewide Pro Bono Development. The Pro Bono Development Project is a three-year project funded by the Kentucky Bar Association Pro Bono Development Fund, the state's legal aid programs and the Access to Justice Foundation, and will help to improve access to the judicial system for low income Kentucky residents.

SUSAN WESLEY MCCLURE, on Jan 27, 2006, was appointed to the Hopkins Circuit Court judgeship. The vacancy was created by the previous judge's retirement. She will be on the ballot in November to retain the position. She is married to Dr. Tom McClure (UK Medical School graduate); they have three children: Emily, age 14; Joe, age 12; and Will, age 5.

1990

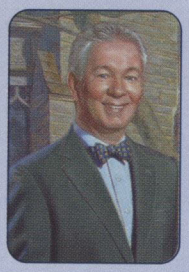
EDWARD B. ATKINS has been selected as a U.S. Magistrate Judge. He is a member of the Smith, Atkins and Tompson PLLC law firm in Pikeville, Ky. Atkins served from 1990-1992 as a clerk for Chief U.S. District Judge Joseph M. Hood. He and Robert E. Wier (UK Law '92) will replace current U.S. Magistrate Judges Peggy P. Patterson (UK Law '76) and J.B. Johnson, Jr. (UK Law '61).

LEAH BROWN was recently profiled in Ebony magazine as the co-founder, president and CEO of ATEN Solutions (A10), a professional service that conducts clinical research, manages clinical data and offers statistical programming for clinical trials. A10 is only one of a small group of certified woman- and minority-owned firms that provide support for major clinical trials that lead to FDA approval of therapeutic products for global biotech and pharmaceutical companies. Brown lives in Cary, N.C. with her two sons, Christopher and Clayton.

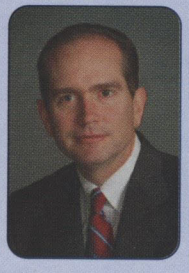
THOMAS E. RUTLEDGE published an article, "2006 Amendments to the Assumed Name Statute: The Ongoing Task of Modernization and Clarification," with Maryellen B. Allen, in the May 2006 issue of *Bench & Bar*. He also recently published "To Boldly Go Where You Have Not Been Told You May Go: LLCs, LLPs and LLLPs In Interstate Transations" in the *Baylor Law Review*. In addition, Rutledge co-authored "Who's Selling the Next Round: Wines, State Lines, the Twenty-First Admendment and the Commerce Clause" in the *Northern Kentucky Law Review*. He is a member of Stoll Keenon Ogden PLLC in Louisville, Ky. and an adjunct professor at the University of Kentucky College of Law.

1991

JANE ALLEN, founder of Counsel On Call, was awarded the prestigious 2006 Entrepreneur of the Year award in the 19th Annual Best of Business awards competition by the *Nashville Business Journal*. Counsel On Call is an attorney-owned company dedicated exclusively to placing contract attorneys.



CARROLL STEVENS received an honorary Doctor of Laws degree at the 2006 spring commencement at Georgetown. He retired as associate dean from the Yale Law School in 2005 and went onto Regent's Park College of Oxford University, where he is an Honorary Fellow, a member of the governing body and serves as chair of the U.S. Board of Advisers. Stevens was also recently appointed to the California P-16 Commission by State Superintendent of Public Instruction, Jack O' Connell. His primary work is in urban education, thanks to a Senior Fellowship at the Stupski Foundation, which, though based in California, has programs of support for inner-city school districts nationwide (more information at www.stupski.org).



CHRIS VAN BEVER has joined Dinsmore and Shohl's Natural Resources Practice Group in Lexington. His practice will include representation of energy and natural resource industry clients in regard to mergers and acquisitions, real estate, environmental compliance and permitting and general corporate law matters.

1992

KATE D. DUNN, a public defender in Fayette County has won the 2006 Gideon Award, which honors "the person who has demonstrated commitment to equal justice and who has courageously advanced the right to counsel for poor people in Kentucky." She is the first Fayette County public defender to win the award.

ROBERT E. WIER has been selected as a U.S. Magistrate Judge. He is a member of Ransdell & Wier PLLC in Lexington, Ky. He was law clerk to Circuit Judge Eugene E. Siler, Jr. from 1992-1993. He and **EDWARD B. ADKINS** (UK Law '90) will replace current U.S. Magistrates Judges Peggy P. Patterson (UK Law '76) and J.B. Johnson, Jr. (UK Law '61).

1994

KIM JACKSON a partner in the Atlanta office of the law firm of Hawkins & Parnell, LLP, was named a Rising Star in Georgia by Law & Politics/Super Lawyers for the second year in a row. His article on "Defending Non-Client Charges" was published in the April 2005 issue of *For The Defense*, the monthly publication of the Defense Research Institute (DRI). He is also expecting his second child in October.

1995

MELANIE S. MARRS has been named a partner with Lynn, Fulkerson, Nichols & Kinkel PLLC, in Lexington, Ky. She practices in medical malpractice, professional liability, mass tort litigation and insurance defense.

1996

CLASS OF '96 10th REUNION
OCTOBER 6-8

LAURA D'ANGELO has joined Wyatt, Tarrant & Combs, LLP as a partner in the firm's Equine, Gaming and Entertainment Practice Group. She was previously general counsel to Gulfstream Park in Miami, Fla.

1997

WESLEY R. BUTLER has been appointed general counsel for the Cabinet for Health and Family Services. In his new position, Butler will advise the secretary and direct all legal matters affecting the cabinet. Before joining the Cabinet, he worked in private practice with the Lexington law firm of Fowler, Measle & Bell. He currently lives in Lexington with his wife and two children.

AMY CUBBAGE has been appointed to Frost Brown Todd LLC's Louisville, Ky. office to practice business and commercial litigation, including unfair competition litigation.

SHANNON M. NAISH has been named a partner with Lynn, Fulkerson, Nichols & Kinkel PLLC, in Lexington, Ky. His practice focuses on medical malpractice, legal malpractice, bad faith claims, premises liability, automobile liability and workers' compensation defense.

BRADLEY F. SLUTSKIN has opened a law office at 131 Morgan Street in Versailles, Ky. His practice focuses on workers' compensation, personal injury, and social security law.

1998

SHELLI FREELAND EDDIE with Dickinson & Gibbons, P.A., served as a guest legal correspondent on CourtTV for the guilt and sentencing phases of the nationally-televised kidnapping/rape/capital murder trial of Joseph P. Smith. She served as co-chair of the Sarasota County Bar Association Young Lawyer's Division DVD Project, to produce an educational DVD video, which provided legal tips to teens at age 18 (e.g., landlord/tenant issues; protecting your credit status; what to do if involved in an automobile accident; and voter registration issues). This video was shown on the local educational channel and distributed throughout the State of Florida. She has also been appointed as a Human Resource Conciliator for the City of Sarasota to mediate allegations of discrimination in housing and public accommodations in Sarasota County, Fla. and appointed to the Board of Directors of the Young Lawyers Division of the Sarasota County Bar Association for a two-year term.

DONALD E. MARTIN was voted partner in the North Carolina law firm of Kennedy Covington. His practice focuses on commercial real estate transactions.

VONDA K. TOLLIVER has been hired as an associate by Wyatt, Tarrant & Combs, LLP. She will practice in real estate and lending matters in their Lexington, Ky. office.

STEVEN K. WELLMAN has been elected to membership in the law firm of Jenkins Fenstermaker, PLLC in Huntington, W.Va. He has been with the firm for seven years and practices in workers' compensation defense and employment litigation.

CALVIN T. (TED) VICK joined Haynsworth Sinkler Boyd in 2003 and practices in the area of construction law in the firm's Greenville, S.C. office. He is currently a member of Leadership Greenville Class 32, South Carolina Bar Association, State Bar of Georgia, and Greenville County Bar Association, as well as an active member of American Bar Association Forum on the construction industry.

1999

HANLY A. INGRAM has joined Stoll Keenon Ogden PLLC's Lexington, Ky. office. He concentrates his practice in business and intellectual property litigation.

TERESSA L. ELLIOTT published an article, "The Federal Arbitration Act: A Primer for Kentucky Attorneys," in the March 2006 issue of *Bench & Bar*. She is an Assistant Professor at Northern Kentucky University in the Department of Accountancy.

2000

DAVID S. SULLIVAN has joined Stoll Keenon Ogden PLLC as an associate in their Louisville, Ky. office. He concentrates his practice on business litigation.

LONA JEAN VENTERS VALENTINE was recently listed as one of Ohio Rising Stars for 2005 by *Law & Politics* and the *Cincinnati* magazine. *Law & Politics* performs the polling, research and selection of Rising Stars in a process designed to identify outstanding Ohio lawyers who have demonstrated superior professional potential. Rising Stars is a comprehensive and diverse listing of outstanding emerging attorneys in Ohio, representing a wide range of practice areas, firm sizes and geographic locations. Only attorneys age 40 and under, or who have been practicing 10 years or less, are named Ohio Rising Stars. She is a tax attorney for Peck, Shaffer & Williams in Cincinnati, Ohio.

2001

RODNEY D. CHRISMAN is teaching in the School of Business, at Liberty, as well as teaching law courses at the graduate and undergraduate levels. He teaches business and commercial law related courses at the College of Law as an adjunct professor.

BEN T. KELLER has joined Wyatt, Tarrant & Combs, LLP in Lexington, Ky. as an associate. He will concentrate on commercial, estate, and medical and legal malpractice litigation.

ASHLEY C. PACK has joined Dinsmore and Shohl's Charleston, W. Va. office. She previously practiced in the firm's Louisville office where she practiced labor and employment law and first amendment law. She also serves as a lobbyist for the Kentucky Press Association. Pack will continue her work in these areas in West Virginia.

2002

JENNIFER L. DITTY has joined the Nashville office of Counsel On Call and will focus on candidate screening and placement. Counsel On Call provides law firms and corporate legal departments access to high-quality legal professionals by providing attorneys and paralegals with excellent academics and significant substantive experience on an as-needed, contract and permanent basis. Counsel On Call is owned and operated by attorneys with the academic and substantive experience of those placed and who understand first-hand the needs of both clients and candidates.

JOSHUA JOHNSON has joined the Lexington office of Boehl Stopher & Graves, LLP as an associate. He will practice primarily in the area of insurance defense litigation.

FARRAH D. WILLIAMS has been made a partner in the Mt. Sterling, Ky. law firm of White Peck Carrington, LLP. She practices in general law and concentrates in insurance defense and business law.

2003

HEATHER H. BRUSER has joined the Lexington, Ky. office of Wyatt, Tarrant & Combs, LLP. She will practice in their Real Estate Group.

JESSICA K. CASE's article "Seeking to Shift Costs: Rule 68 in Arbitration Context" appeared in the March 2006 issue of *Bench & Bar*. She is an associate of Dinsmore & Shohl LLP, and concentrates her practice on employment and business law.

JENNIFER L. HOWARD published her article "Technology in the Courtroom" in the May 2006 issue of *Bench & Bar*. She practices law in Dinsmore & Shohl's Lexington, Ky. office.

BRITTANY H. KOENIG has become an associate at the law firm of Clark & Ward, in their Lexington office.

NICOLE SOTIRIOU has joined the Frankfort, Ky. law firm of Michael L. Hawkins & Associates, PLLC, as an associate. She will practice in the area of family law.

2004

JAMES E. DAVIS has joined the law firm of Boehl Stopher & Graves, LLP in Lexington, Ky. He will practice in insurance defense litigation.

JERRED P. ROTH has joined Fowler, Measle and Bell, LLP, in Lexington, Ky., as an associate. He will practice collection law.

WILLIAM C. VAIL, JR has joined Greenbaum Doll & McDonald PLLC's Louisville, Ky. office. His areas of concentration are labor and employment law.

2005

ADAM M. BACK has joined Fowler, Measle and Bell, LLP, in Lexington, Ky., as an associate. He will focus on corporate and commercial litigation, bankruptcy and business planning.

JENNIFER L. BRINKLEY (formerly Belcher) is an associate at Harned, Bachert & Denton, LLP in Bowling Green, Ky. Brinkley practices in the areas of civil litigation, workers' compensation and domestic relations. Jennifer married in May of 2005 and has two step-children.

TONYA M. CLEMONS recently joined the law firm of Stites & Harbison as an associate. She is a member of the Business Litigation Service Group and concentrates on civil litigation.

SUSAN R. CROWE has joined the Lexington, Ky. law office of Stites & Harbison. She will be a member of the firm's Business and Finance Service Group.

ASHLEY H. DEHNER has joined Fulton and Devil in Louisville, Ky. as an associate. She will practice in the areas of workers' compensation, insurance defense and subrogation.

MATTHEW D. ELLISON has joined Fowler, Measle and Bell, LLP, in Lexington, Ky., as an associate. He will concentrate primarily on litigation.

A. SPENCER MCKINESS has joined the law firm of Stites & Harbison as a member of their Torts and Insurance Practice Service Group in their Lexington, Ky. office.

TRAVIS S. SANDERS has joined VanAntwerp, Monge, Jones and Edwards, LLP's Ashland, Ky. law firm.

HELEN A. THOMPSON has joined Greenbaum Doll & McDonald PLLC. She concentrates her practice in the areas of litigation and dispute resolution. She will practice in the firm's Louisville, Ky. office.

ROBERT B. VICE, JR. has been hired by the Louisville, Ky. office of Stites & Harbison as a member of the firm's Real Estate and Banking Service Group.

TYLER S. WHITTY has joined the law firm of Stites & Harbison in their Louisville, Ky. office as a member of their Business and Finance Service Group.

PHILLIP J. WININGER has joined the firm of Stites & Harbison as a member of their Construction Service Group. He will be based in their Lexington, Ky. office.

2006

JOHN AGNEW placed fifth in the Best Ranger Competition, a sixty hour test of Ranger Qualified soldiers' strength and endurance, in April at Fort Benning in Georgia. He was the only reservist in the competition.

GREG NAPIER was selected by the American College of Bankruptcy as a Distinguished Bankruptcy Law Student. He was one of only six students nationwide to receive this honor, and was selected from students nominated by law schools in Kentucky, Michigan, Ohio and Tennessee.

2007 FUTURE ALUMNUS

KRISTIN GONZALEZ

After attending the University of Florida where she graduated in 3 1/2 years with high honors (3.8 GPA) with a Bachelors of Science in Psychology and a minor in Criminology, Kristin Gonzalez decided to put her skills to use with a career in law. She chose UK College of Law because of their outstanding reputation for excellent education and the quality of their professors. Gonzalez adds that she "also liked the teacher to student ratio in that it was smaller than most other schools. I was offered a provost fellowship to attend UK which pays for 50% of my tuition."

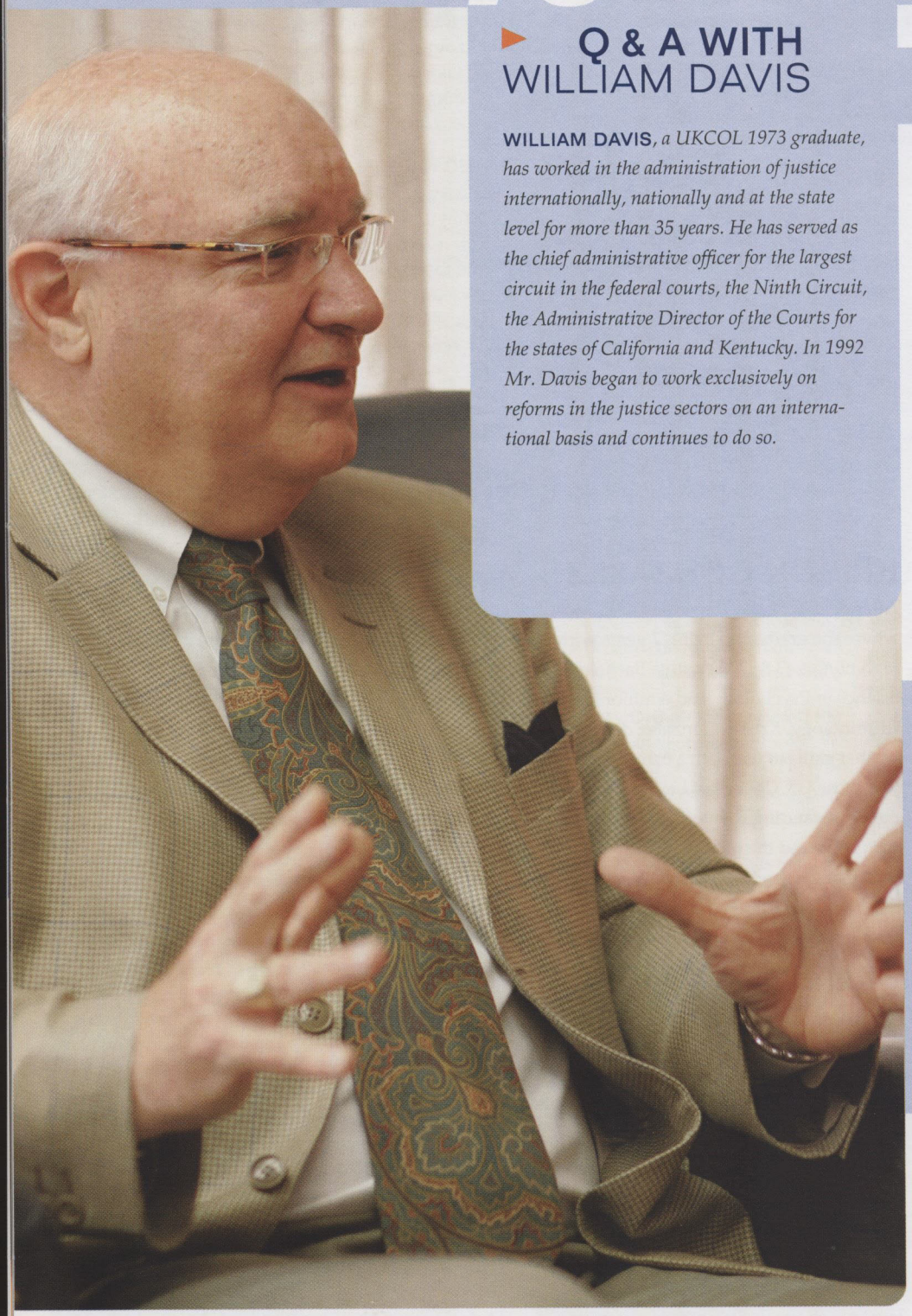
As a third year law student, Gonzalez has had the opportunity to work with The Rural Drug Program (RDPAP), which she notes "has been an amazing experience for me." She worked out of the Cynthiana office in Harrison county which covers Harrison, Bourbon, Pendleton, Robertson and Nicholas counties. Gonzalez has done everything from research on important legal questions to sitting in on every stage of the system; including arraignments, pre-trial conferences and trials. She has sat in on juvenile court and has attended detention hearings, as well as been able to visit the jails to interview clients; having attended both district and circuit courts. The directing attorney of this program is La Mer Kyle-Reno. Gonzalez notes, "she has been instrumental in my education during this process, as well as the other attorneys." Gonzalez adds, "The judges have been wonderfully accommodating in letting the interns see all aspects of how a courtroom works. I have been allowed to sit at counsel table as well as stand up at the podium with a client and have even been allowed in the judge's chambers while he was having discussions with the attorneys. It has been such a rewarding experience and everyone has been so helpful."

Upon graduation, in May 2007, Gonzalez plans to continue in this line of work and hopefully get a position with the Department of Public Advocacy. □

ALUMNUS

1973

Q & A WITH WILLIAM DAVIS



WILLIAM DAVIS, *a UKCOL 1973 graduate, has worked in the administration of justice internationally, nationally and at the state level for more than 35 years. He has served as the chief administrative officer for the largest circuit in the federal courts, the Ninth Circuit, the Administrative Director of the Courts for the states of California and Kentucky. In 1992 Mr. Davis began to work exclusively on reforms in the justice sectors on an international basis and continues to do so.*

Q:: Tell me a little about what you do now.

A:: I am the president of a consulting firm that works in promotion of the Rule of Law and Transparency. We bid on contracts that are left by donor agencies (i.e., the World Bank). We have offices in 18 countries; we work with these countries to help them improve their legal systems. Our criminal process is oral here in the United States, so we help make the transition from written to oral in these countries (reform initiative).

I am also a mediator with International Finance Corporation (a private sector of World Bank). The Ombudsman office receives complaints from communities and individuals where the IFC is a shareholder. These complaints tend to focus on environmental, economic and social issues.

Q:: Your resume is very impressive. You served as Administrative Director of the Courts for the Commonwealth of Kentucky from 1975-79. During that time you oversaw the complete reorganization of the state court system; Administrative Director of the Courts for the State of California 1987-92; Circuit Executive of the Ninth Circuit 1981-85. How did your work with the American legal system in both state and federal courts prepare you for your work at the international level?

A:: It's been vital because in every aspect of the reform effort, you learn new things. In the Kentucky experience, in the mid '70s,

the public vote that changed the judicial system was motivated largely because of allegations of corruption. So I find myself consistently looking at issues of corruption in other countries. We found that in the first year of operation in trial courts in Kentucky the system took in 10 million dollars more that the year before, so we developed a transparent accounting system, trained court staff and audited it; thus, creating more accountability.

Q:: You have worked with client countries over the years that do not share a legal background rooted in the Rule of Law. How do you overcome cultural, as well as structural barriers, to implementing reforms in these countries?

A:: An example is that I have spent a lot of time in Jordan and I don't speak Arabic. I find that in this secular government, not a religious government, that there is a universal language and concern about justice. It is like the Old Testament in Isaiah, "Who defends Israel, defends day and night." In my own words, he who seeks to improve justice never rests. Everywhere I have gone in the world, whether it is Pakistan, Bangladesh or Latin America, there are people who want to make their justice systems work better. It is with those people that you find so much in common, building a partnership of understanding and commitment to building a different world. We try to work on the basis of principles, rather than formulas.

Q:: Given your line of work and experience working with other Middle Eastern countries, what is your opinion of the government building process in Iraq? Are there things the U.S. could have done or should now be doing to help ensure a successful outcome?

A:: We were invited to be a part of a bid before the invasion with the Research Triangle Institute in North Carolina, but we declined, because we thought the process violated international law and lacked the necessary consensus to build sustaining activities.

Iraq has a history and organizational tradition. We have focused mostly on the Saddam Hussein era without recognizing this country had a previous history. In this business you never start from zero. The most successful strategies build on those aspects of society and government that worked. If one assumes that everything is broken you will have a self-fulfilling prophesy. It takes a disciplined approach and the need to recognize that one must respect the dignity of the ones with whom one is cooperating.

Q:: You have been working in the West Bank and Gaza Strip to improve the judicial system of the Palestinian Authority since 2005. Given that the U.S. is hardly seen as an honest broker by the Palestinians in the political disputes between Israel and Palestine, how does that affect your work in the region, given that you are a U.S.-based company promoting, I'm assuming, a U.S. philosophy of legal justice?

A:: You can do meaningful things in Palestine. The week before the election of Hamas, the Attorney General of Palestine told President Abbas that they now have the case to indict four Palestinians for stealing 700 million dollars. That couldn't happen when Arafat was there. We had a Jewish-American prosecutor from L.A. training Palestinian prosecutors for three years. We trained them on how to deal with corruption cases. This was the first case in their history. To me, the effort was worth it.

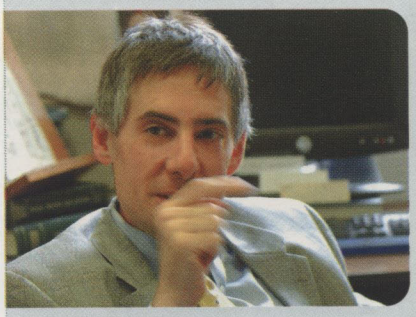
Unfortunately, the media generalizes about everyone. When one says Palestinians it immediately conjures up a visual image of bearded people with their heads covered up. There are many kinds of Palestinians and quite a large number have families in the U.S. Among many Palestinians, there is keen interest in creating a functioning justice system as they once had during the British Mandate period. We have had extraordinary receptivity from the judiciary and prosecution.

Q:: In January 2006, Hamas became the ruling part in the Palestinian Authority. How has this affected your work, if at all?

A:: The election of Hamas has changed the relationship between our government and the Palestinian Authority. We submitted a proposal to the U.S. government that the work with the Supreme Court and Attorney General are not under Hamas control, the executive branch, they are an independent branch of government. Both the chief justice and attorney general wrote a letter asking for us to stay involved. This may be one of the few portholes the U.S. has with the Palestinian Authority in this time period. □

CLOSING ARGUMENT

by Paul E. Salamanca
James & Mary Lassiter
Professor of Law



JUDICIAL ACTIVISM REVISITED

The phrase "judicial activism" is used with some frequency these days, and defenders of the judiciary are correct to argue that calling someone a "judicial activist" is often the same as saying "I disagree." What exactly is "judicial activism?" Deviation from plain text? From precedent? What if plain text says one thing and precedent says another? For many people, these are not easy questions.

Take for example the not-entirely-exciting Eleventh Amendment, which provides that "the Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State." By its plain language, this amendment does not bar an action against a state in federal court by one of its own citizens, yet since *Hans v. Louisiana* (1890) the U.S. Supreme Court has generally interpreted this provision to do exactly that, reasoning that those who adopted the amendment couldn't possibly have intended a different result. Activist? Restrained? The answer depends on many factors, including due regard for text, historical context, federalism and stare decisis. Depending on one's appreciation for these sources of authority, allowing a state to be sued in federal court by one of its own citizens could readily be described as either activist or humble.

But let's not burn down the house to roast the pig. Although we can acknowledge that aspersions of judicial activism often add more heat than light to the debate, we should not leave the issue entirely behind and adopt the reductionist view that judicial activism of a sort can never exist, or that judicial restraint is not a virtue. Alexander Hamilton certainly took the position in Federalist 78 that restraint is part of the judicial function. Even while defending the principle of judicial review, he observed that "[t]he courts must declare the sense of the law; and if they should be disposed to exercise WILL instead of JUDGMENT, the consequence would equally be the substitution of their pleasure to that of the legislative body."

Of course, this observation doesn't help much, for we could just as easily call a court "willful" as "activist," and make yet another conclusory assertion. But Hamilton's observation does help by assuming that the concept of "judgment" has objective meaning, however difficult it may be to discern. If the umpire in a baseball game presumed to tell a particular batter to bunt, we would not hesitate to say that the umpire had overstepped his or her bounds. We may refrain from using the word "activist," but the basis for our complaint would be understandable indeed.

So how do we ascribe content to the concepts of "judgment" and "restraint"? Although no one would presume to answer this question with authority, perhaps we can find some common ground. We can begin by recognizing that courts can be "wrong" without being out of bounds. If, after considering the various sources of authority that apply to a particular case, we conclude that a court decided it wrongly, we are certainly empowered as citizens to say so, and to criticize the judiciary for its "mistake" (in our eyes). But if a recognized source of authority supports the decision, we should hesitate to criticize it as out of bounds, because it really isn't. Within our constitutional tradition, courts justify decisions in terms of text, original intent, precedent and structural theory. To the extent we accept these sources of authority as legitimate, a decision that arises persuasively from within them can be defended against a charge of activism. This is not to say that it can't be criticized, but only that it must be criticized on the merits, such as by arguing that, in such-and-such a context, the text, underlying intent, and precedent are ambiguous, and strong structural considerations cut the other way. On the other hand, a decision that arises persuasively from none of these sources is subject to stern criticism.

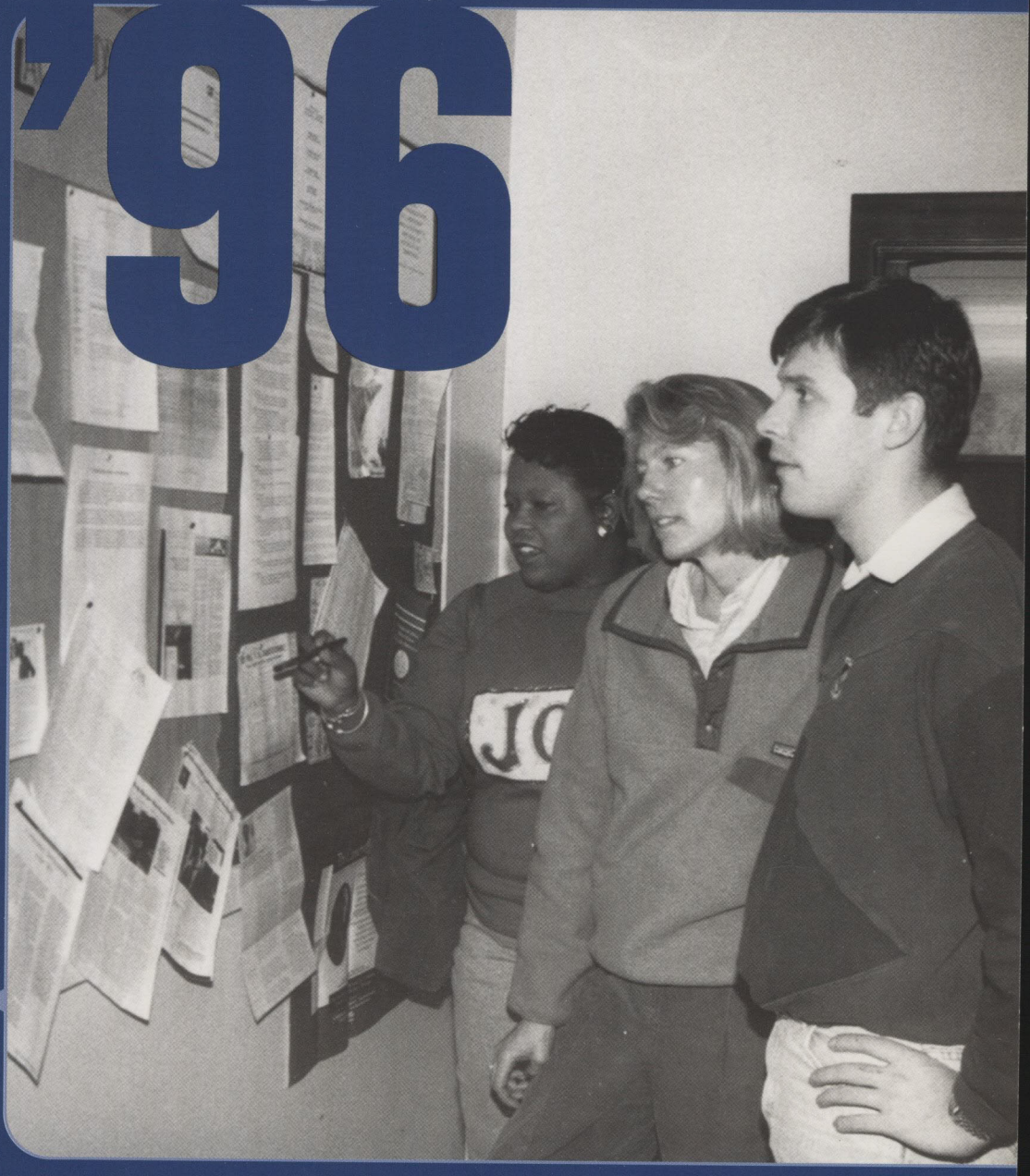
Judicial review and the formulation of public policy are not fungible. Responsibility for one lies principally with the judiciary, and for the other with the political branches. We must keep this is mind if we are to preserve separation of powers.

As Judge Michael McConnell of the Tenth Circuit aptly noted in the Fordham Law Review (Vol. 65, 1997): **Within the range of discretion established by various conceptions that are consistent with text, history, practice, and precedent, the people through their representative institutions—not the courts—have authority to decide which course of action "does most credit to the nation." There may be many different answers to that question, and none is constitutionally privileged. It is the right, privilege, and obligation of the people to deliberate about such questions through their elected representatives.**

Closing Argument is a forum for faculty to express their opinions on controversial legal topics. Your reactions are welcome and may be submitted to Law Notes, *209 Law Building, Lexington, KY 40506-0048. Published letters may be edited for length and clarity.*

THE ARCHIVE

looking back '96



Law students check the latest news and job postings on the Student Public Interest Law Foundation board.

Courtesy of the UK College of Law Alumni Association photo archives

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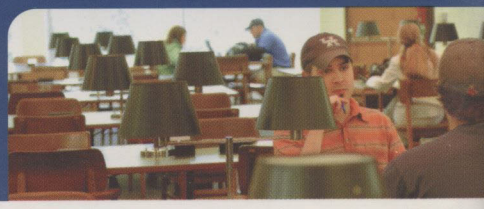
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